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A BOOK ABOUT LAWYERS.

VOL. II.

A BOOK ABOUT LAWYERS.

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BY

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"A BOOK ABOUT DOCTORS,"

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CHAPTER XLIII.

BAGS AND GOWNS.

IN a collection of notes on legal costume, the lawyer's bag deserves a few observations.

On the stages of the Caroline theatres the lawyer is found with a green bag in his hand; the same is the case in the literature of Queen Anne's reign; and until a comparatively recent date green bags were generally carried in Westminster Hall and in provincial courts by the great body of legal practitioners. From Wycherley's "Plain Dealer," it appears that in the time of Charles II. angry clients were accustomed to revile their lawyers as "green-bag carriers." When the litigious Widow Blackacre upbraids the barrister who declines to argue for her, she exclaims—"Impertinent again, and ignorant to me! Gadsboddikins! you puny upstart in the law, to use me so, you green-bag carrier, you murderer of unfortunate causes, the clerk's ink is scarce off of your fingers." In the same drama, making much play with the green bag, Wycherley indicates the Widow Blackacre's quarrelsome disposition by decorating her with an enormous green reticule, and makes her son, the law-student, stagger about the stage in a gown, and under a heavy burden of green bags.

So also in the time of Queen Anne, to say that a man intended to carry a green bag, was the same as saying that he meant to adopt the law as a profession. In Dr. Arbuthnot's "History of John Bull," the prevalence of the phrase is shown by the passage, "I am told, Cousin Diego, you are one of those that have undertaken to manage me, and that you have said

you will carry a green bag yourself, rather than we shall make an end of our lawsuit. I'll teach them and you too to manage." It must, however, be borne in mind that in Queen Anne's time green bags, like white bands, were as generally adopted by solicitors and attorneys as by members of the bar. In his "character of a pettifogger" the author of "The London Spy" observes—"His learning is commonly as little as his honesty, and his conscience much larger than his green bag."

Some years have elapsed since green bags altogether disappeared from our courts of law; but the exact date of their disappearance has hitherto escaped the vigilance and research of Colonel Landman. "Causidicus" and other writers who in the pages of that useful and very entertaining publication, *Notes and Queries*, have asked for information on that point and kindred questions. Evidence sets aside the suggestion that the colour of the lawyer's bag was changed from green to red because the proceedings at Queen Caroline's trial rendered green bags odious to the public, and even dangerous to their bearers; for it is matter of certainty that the leaders of the Chancery and Common Law bars carried red bags at a time considerably anterior to the inquiry into the queen's conduct. But though that investigation did not give birth to the red bag, it is not improbable that it contributed to the final and universal disuse of green bags.

On other questions concerning lawyers' bags there is no less uncertainty.

In a letter addressed to the editor of *Notes and Queries*, a writer who signs himself "Causidicus" observes—"When I entered the profession (about fifty years ago) no junior barrister presumed to carry a bag in the Court of Chancery, unless one had been presented to him by a King's Counsel; who, when a junior was advancing in practice, took an opportunity of complimenting him on his increase of business, and giving him his own bag to carry home his papers. It was then a distinction to carry a bag, and a proof that a junior was rising in his profession. I do not know whether the custom prevailed in other courts." From this it appears that fifty years since the bag was an honourable distinction at the Chancery bar, giving its bearer some such professional status as that which is

conferred by "silk" in these days when Queen's Counsel are numerous.

The same professional usage seems to have prevailed at the Common Law bar more than eighty years ago; for in 1780, when Edward Law joined the Northern Circuit, and forthwith received a large number of briefs, he was complimented by Wallace on his success, and presented with a bag. Lord Campbell asserts that no case had ever before occurred where a junior won the distinction of a bag during the course of his first circuit. "Now-a-days," adds Lord Campbell in a note, "any young barrister buys a bag, and carries it as soon after he is called to the bar as he likes; but when I was called to the bar, and long after, the privilege of carrying a bag was strictly confined to those who had received one from a King's Counsel. The King's Counsel, then few in number, were considered officers of the crown, and they had not only a salary of 40*l.* a year, but an annual allowance of paper, pens, and purple bags. These they distributed among juniors who made such progress as not to be able to convey their briefs conveniently in their hands."

There is no record of the date when members of the junior bar received permission to carry bags according to their own pleasure; it is even matter of doubt whether the permission was ever expressly accorded by the leaders of the profession—or whether the old restrictive usage died a gradual and unnoticed death. The present writer, however, is assured that at the Chancery Bar, long after *all* juniors were allowed to carry bags, etiquette forbade them to adopt bags of the same colour as those carried by their leaders. An eminent Queen's Counsel, who is a member of that bar, remembers that when he first donned a stuff gown, he, like all Chancery juniors, had a purple bag—whereas the wearers of silk at the same period, without exception, carried red bags.

Before a complete and satisfactory account can be given of the use of bags by lawyers, as badges of honour and marks of distinction, answers must be found for several questions which at present remain open to discussion. So late as Queen Anne's reign lawyers of the lowest standing, whether advocates or attorneys, were permitted to carry bags;—a right which the

junior bar appears to have lost when Edward Law joined the Northern Circuit. At what date between Queen Anne's day and 1780 (the year in which Lord Ellenborough made his *début* in the North), was this change effected? Was the change gradual or sudden? To what cause was it due? Again, is it possible that Lord Campbell and Causidicus wrote under a misapprehension, when they gave testimony concerning the usages of the bar with regard to bags, at the close of the last and the beginning of the present century? The memory of the distinguished Queen's Counsel, to whom allusion is made in the preceding paragraph, is quite clear that in his student days Chancery juniors were forbidden by etiquette to carry *red* bags, but were permitted to carry blue bags; and he is strongly of opinion that the restriction to which Lord Campbell and Causidicus draw attention, did not apply at any time to blue bags, but only concerned red bags, which, so late as thirty years since, unquestionably were the distinguishing marks of men in leading Chancery practice. Perhaps legal readers of this chapter will favour the writer with further information on this not highly important, but still not altogether uninteresting subject.

The liberality which for the last five-and-twenty years has marked the distribution of "silk" to rising members of the bar, and the ease with which all fairly successful advocates may obtain the rank of Queen's Counsel, enable lawyers of the present generation to smile at a rule which defined a man's professional position by the colour of his bag, instead of the texture of his gown; but in times when "silk" was given to comparatively few members of the bar, and when that distinction was most unfairly withheld from the brightest ornaments of their profession, if their political opinions displeased the "party in power," it was natural and reasonable in the bar to institute for themselves an "order of merit"—to which deserving candidates could obtain admission without reference to the prejudices of a Chancellor or the whims of a clique.

At present the sovereign's counsel learned in the law constitute a distinct order of the profession; but until the reign of William IV. they were merely a handful of court favourites. In most cases they were sound lawyers in full employment; but the immediate cause of their elevation was almost always

some political consideration—and sometimes the lucky wearer of a silk gown had won the right to put K.C. or Q.C. after his name by base compliance with ministerial power. That our earlier King's Counsel were not created from the purest motives or for the most honourable purposes will be readily admitted by the reader who reflects that "silk gowns" are a legal species, for which the nation is indebted to the Stuarts. For all practical purposes Francis Bacon was a Q.C. during the reign of Queen Elizabeth. He enjoyed peculiar and distinctive *status* as a barrister, being consulted on legal matters by the Queen, although he held no place that in familiar parlance would entitle him to rank with her Crown Lawyers; and his biographers have agreed to call him Elizabeth's counsellor learned in the law. But a Q.C. holding his office by patent—that is to say, a Q.C. as that term is understood at the present time—Francis Bacon never was. On the accession, however, of James I., he received his formal appointment of K.C., the new monarch having seen fit to recognise the lawyer's claim to be regarded as a "special counsel," or "learned counsel extraordinary." Another barrister of the same period who obtained the same distinction was Sir Henry Montague, who, in a patent granted in 1608 to the two Temples, is styled "one of our counsel learned in the law." Thus planted, the institution of monarch's special counsel was for many generations a tree of slow growth. Until George III.'s reign the number of monarch's counsel, living and practising at the same time, was never large; and throughout the long period of that king's rule the fraternity of K.C.'s never assumed the magnitude and character of a professional order. It is uncertain what was the greatest number of contemporaneous K.C.'s during the Stuart dynasty; but there is no doubt that from the arrival of James I. to the flight of James II. there was no period when the K.C.'s at all approached the serjeants in names and influence. In Rymer's "Fœdera" mention is made of four barristers who were appointed counsellors to Charles I., one of whom, Sir John Finch, in a patent of precedence is designated "King's Counsel;" but it is not improbable that the royal martyr had other special counsellors whose names have not been recorded. At different times of Charles II.'s reign, there were created some seventeen K.C.'s, and seven times that

number of serjeants. James II. made ten K.C.'s; William and Mary appointed eleven special counsellors; and the number of Q.C.'s appointed by Anne was ten. The names of George I.'s learned counsel are not recorded; the list of George II.'s K.C.'s, together with barristers holding patents* of precedence, comprise thirty names; George III. throughout his long tenure of the crown gave "silk" with or without the title of K.C., to ninety-three barristers; George IV. to twenty-six; whereas the list of William IV.'s appointments comprised sixty-five names, and the present queen has conferred the rank of Q.C. on about two hundred advocates—the law-list for 1865 mentioning one hundred and thirty-seven barristers who are Q.C.'s, or holders of patents of precedence, and only twenty-eight serjeants-at-law, not sitting as judges in any of the supreme courts. The diminution in the numbers of the serjeants is due partly to the loss of their old monopoly of business in the Common Pleas, and partly—some say, chiefly—to the profuseness with which silk gowns, with Q.C. rank attached, have been thrown to the bar since the passing of the Reform Bill.

Under the old system when "silk"† was less bountifully bestowed, eminent barristers not only led their circuits in stuff,

* "About this time," says Mr. Foss, in his account of the legal movements of George II.'s reign, "a custom was introduced of granting patents of precedence to such barristers as the crown considered proper to honour with that mark of distinction, instead of appointing them king's counsel. It probably originated in the division of parties, and the disinclination of the sovereign to name those as his own counsel who were opposed to his ministry, and yet who, by their talents or command of business, had obtained a lead in the courts. They were entitled to wear a silk gown and sit within the bar; and their places were generally assigned next after the existing king's counsel. The only real distinction between them and the king's counsel was the privilege of being retained in cases of the crown." There was another point of real difference. Whereas a king's counsel at that time had salary and perquisites, the mere holder of a patent of precedence had neither. These patents are sometimes granted to serjeants who wish to take rank amongst queen's counsel. For instance, Mr. Serjeant Ballantyne and Mr. Serjeant Parry hold patents of precedence.

† Serjeants wear silk gowns in court; but, as the coif is their distinctive badge, their rank is colloquially described by an allusion to that vestige of a headdress. When a barrister is raised to the rank of a serjeant, he is said to "take the coif;" whereas counsel are said to take "silk" when they are made queen's counsel or receive patents of precedence. Serjeants who hold patents of precedence—like Bompas, Ballantyne, Kinglake, Manning, Parry—have taken both "the coif" and "silk."

but, after holding office as legal advisers to the crown and wearing silk gowns whilst they so acted with their political friends, they sometimes resumed their stuff gowns and places "outside the bar," on descending from official eminence. When Charles Yorke in 1763 resigned the post of Attorney General, he returned to his old place in court without the bar, clad in the black bombazine of an ordinary barrister, whereas during his tenure of office he had worn silk and sat within the bar. In the same manner when Dunning resigned the Solicitor Generalship in 1770, he reappeared in the Court of King's Bench, attired in stuff, and took his place without the bar; but as soon as he had made his first motion, he was addressed by Lord Mansfield, who with characteristic courtesy informed him that he should take precedence in that court before all members of the bar, whatever might be their standing, with the exception of King's Counsel, Serjeants, and the Recorder of London. Not less popular with the members of his profession than with the members of his party, Dunning received further gratification from the cordiality with which Mr. Caldecott and Mr. Coxe, two seniors of the utter bar, assured Lord Mansfield that his determination would give unqualified satisfaction to every wearer of the long robe. On joining the Northern Circuit in 1780, Edward Law found Wallace and Lee leading in silk, and twenty years later he and Jemmy Park were the K.C.'s of the same district. Of course the circuit was not without wearers of the coif, one of its learned serjeants being Cockell who, before Law obtained the leading place, was known as "the Almighty of the North;" and whose success, achieved in spite of an almost total ignorance of legal science, was long quoted to show that though knowledge is power, power may be won without knowledge.

In nothing did the spitefulness of Lord Eldon's essentially ungenerous nature display itself more offensively than in the determination which he showed to injure the professional *status* and prospects of lawyers who ventured to oppose his political views. From pure dislike of the thought that younger men should follow closely or at a distance in his steps to the highest eminences of legal success, he was disgracefully stingy in bestowing honours on rising barristers who belonged to his own

party; but his injustice and downright oppression to brilliant advocates in the Whig ranks, merit the warmest expressions of disapproval and contempt. The most notorious sufferers from his rancorous intolerance were Henry Brougham and Mr. Denman, who, having worn silk gowns as Queen Caroline's Attorney General and Solicitor General, were reduced to stuff attire on that wretched lady's death. So long as Eldon retained the seals neither of those gentlemen received the distinction which they both richly deserved—and this not because George IV. cherished an incurable desire to injure the men who had zealously and honourably served his dishonoured queen, but because the Chancellor could not control his hatred for the men who had been true to their client and to Whig principles. "No young lady," wrote the Chancellor, in a letter which is a curious illustration of Eldon's constitutional good temper, "was ever so unforgiving for being refused a silk gown, when silk gowns adorned female forms, as Brougham is with me, because, having insulted my master, the insulted don't like to clothe him with distinction, and honour, and silk."

Another but less splendid victim of Eldon's unfairness to his political adversaries was the Whig John Campbell, who observes—"Of his stingy distribution of honours to the bar I must speak with forbearance, having myself been one of the sufferers. Although he himself had asked and obtained a silk gown at the end of seven years after his call to the bar, he declined to give one to me when I had been twenty years at the bar, and had for several years enjoyed the decided lead of my circuit. This, like the far more flagrant injustice done to Scarlett, might appear to have been from political prejudice; but he treated still worse his particular friend, Charles Wetherell, who shared all his sentiments in church and state, besides enjoying deservedly high professional eminence, and who, when well stricken in years, was allowed to remain without a full-bottom wig to cover his grey hairs. These instances are probably to be explained from a mere love of procrastination, and the dislike of being driven to decide upon the pretensions of other gentlemen at the bar of equal standing and more doubtful claims. But his conduct in not giving the rank of King's Counsel to Mr. Brougham and Mr. Denman was positively culpable, and proceeded from a sordid motive."

As in his letter to his daughter in 1825, so also after his loss of office, when justice had at length been done to Brougham and Denman, Eldon tried to lay all the blame of his own misconduct on George IV. But however strong may have been that monarch's aversion for the Whig lawyers, it was controlled by the judicious counsels of Lyndhurst and the firmness of Wellington.

It is worthy of notice that in old time, when silk gowns were few, their wearers were sometimes very young men. From the days of Francis North, who was made K.C. before he was a barrister of seven full years' standing, down to the days of Eldon, who obtained silk after seven years' service in stuff, instances could be cited of the rapidity with which lucky youngsters rose to the honours of silk, whilst hard-worked veterans were to the last kept outside the bar. Thurlow* was called to the bar in November, 1754, and donned silk in December, 1761. Six years had not elapsed since his call to the English bar, when Alexander Wedderburn was entitled to put the initials K.C. after his name, and wrote to his mother in Scotland, "I can't very well explain to you the nature of my preferment, but it is what most people at the bar are very desirous of, and yet most people run a hazard of losing money by it. I can scarcely expect any advantage from it for some time equal to what I give up; and, notwithstanding, I am extremely happy, and esteem myself very fortunate in having obtained it." Erskine's silk was won with still greater speed, for he was still in his fifth year of forensic standing when he was invited within the bar; but his silk gown came to him with a patent of precedence, giving him the status without the title of a King's Counsel.

Bar mourning is no longer a feature of legal costume in

Several apocryphal or unquestionably fictitious stories were pinned upon Thurlow's silk gown, one of which makes him indebted for his elevation to the old Duchess of Queensbury, who, delighted with his brilliant success in the great Douglas cause, said to the young man—"What can I do for you?" "Give me a silk gown," was the blunt answer. "A silk gown?" cried the duchess, in a shrill tone of lively astonishment. "What good can one of my silk gowns do you? You wouldn't make a pretty woman." Whereupon Thurlow explained that he had no intention to assume the disguise of female apparel, but wished for a silk bar-gown. Certain facts throw discredit on this story. Thurlow wore silk in Hilary Term, 1762; the Scotch litigation in the Douglas cause, in which Thurlow had no part, did not begin till December, 1762; and Thurlow's great speech in the case at the bar of the House of Lords was not made till 1769.

England. On the death of Charles II. members of the bar donned gowns indicative of their grief for the national loss, and they continued, either universally or in a large number of cases, to wear these woful habiliments till 1697, when Chief Justice Holt ordered all barristers practising in his court to appear "in their proper gowns and not in mourning ones"—an order which, according to Narcissus Luttrell, compelled the bar to spend 15*l.* per man. From this pecuniary statement it may be inferred that (regard being had to change in value of money) a bar-gown at the close of the seventeenth century cost about ten times as much as it does at the present time.

CHAPTER XLIV.

HATS.

NOT less famous in history than Bradshaw's broad-brimmed hat, nor less graceful than Shaftesbury's jaunty beaver, nor less memorable than the sailor's tarpaulin, under cover of which Jeffreys slunk into the Red Cow, Wapping, nor less striking than the black cap still worn by Justice in her sternest mood, nor less fanciful than the cocked hat which covered Wedderburn's powdered hair when he daily paced the High Street of Edinburgh with his hands in a muff*—was the white hat which an illustrious Templar invented at an early date of the eighteenth century. Beau Brummel's original mind taught the human species to starch their white cravats; Richard Nash, having surmounted the invidious bar of plebeian birth and raised himself upon opposing circumstances to the throne of Bath, pro-

* Three generations of our ancestors saw muffs very generally worn by modish men as well as by ladies. In Charles II.'s reign, young barristers wore muffs in cold weather, and the fashion survived the middle of the eighteenth century. A ballad of the period, describing the scene on the Thames in the winter of 1683-4, when a fair was held and oxen were roasted on the ice, notices

"A spark of the bar with his cane and his muff;"

and Alexander Wedderburn, recalling the appearance and demeanour which brought him his first fee at the Scotch bar, observed—"Knowing the character of my countrymen at that time, I was at great pains to study and assume a very grave, solemn deportment for a young man, which my marked features, notwithstanding my small stature, would render more imposing. Men then wore in winter small muffs, and I flatter myself that, as I paced to the Parliament House, no man of fifty could look more thoughtful or steady. My first client was a citizen whom I did not know. He called upon me in the course of the cause, and becoming familiar with him, I asked him 'how he came to employ me?' The answer was—'Why, I had noticed you in the High Street going to court, the most punctual of any, as the clock struck nine, and you looked so grave and business-like, that I resolved from your appearance to have you for my advocate.'"

duced a white hat. To which of these great men society owes the heavier debt of gratitude thoughtful historians cannot agree; but even envious detraction admits that they deserve high rank amongst the benefactors of mankind. Brummel was a soldier; but Law proudly claims as her own the parent of the pale and spotless *chapeau*. When William of Orange was entertained by the Middle Temple, a singularly handsome and accomplished student is said to have taken a prominent and energetic part in the preparations and ceremony. Bright and joyous in countenance; slender in form and delicate in feature; endowed with a musical voice, ready wit, admirable tact, and faultless taste—this highly-favoured boy was on good terms with every member of the Society; followed by students, petted by Benchers, applauded by the bar. On the occasion of the royal visit, William was charmed with the youngster's animation and gallant style, and delighted with the masque which was performed with the lad's assistance and under his direction. "Mr. Nash," said the king, in his most gracious manner, "kneel there, and let me put my sword upon your shoulder." Unwilling to accept an honour that might rouse the envy of his companions and lessen his popularity, young Nash bowed till his wig was within six inches of the ground, and then with mingled confidence and anxiety that well became his years and inexperience, exclaimed, "Please your majesty, if you intend to make me a knight, I wish it may be one of your poor knights of Windsor, and then I shall have a fortune at least able to support my title." "As you will, my boy," replied the sovereign, with undiminished good humour; "but, unless I am mistaken, higher honours are in store for you." And the king was right in that prediction. Ere his youth had fled, Richard Nash was a king himself!—King of Bath, with the chief pump-room for a chamber of audience, and a white hat for a crown!

For let it not be imagined that in the days of his brightest glory, King Nash permitted his subjects to wear white hats. That pure and undefiled castor* was for his head alone. The

* In the *jeux d'esprit* of Westminster Hall, the pun plays a somewhat too frequent and conspicuous part. Amongst the apocryphal stories current at junior bar-tables, is one that makes play upon Sir Frederick Pollock's name, and makes merry with

ensign of his authority, the emblem of his virtuous rule, the symbol of his intellectual despotism, it was preserved for his own royal use and honour; and the proud nobles of Great Britain, having raised it aloft in the chief square of one of England's fairest cities, rendered it the homage of enthusiastic cheers, and, unlike the churlish peasants of Altorf, deemed it a privilege and a joy to be permitted to bow down before it.

About lawyers' cocked hats a capital volume might be written, that should contain no better story than the one which is told of Ned Thurlow's discomfiture in 1788, when he was playing a trickster's game with his friends and foes. Windsor Castle just then contained three distinct centres of public interest—the mad king in the hands of his keepers; on the one side of the impotent monarch the Prince of Wales waiting impatiently for the Regency; on the other side, the queen with equal impatience longing for her husband's recovery. The prince and his mother both had apartments in the castle, her majesty's quarters being the place of meeting for the Tory ministers, whilst the prince's apartments were thrown open to the select leaders of the Whig expectants. Of course the two coteries kept jealously apart; but Thurlow, who wished to be still Lord Chancellor, "whatever king might reign," was in private communication with the prince's friends. With furtive steps he passed from the queen's room (where he had a minute before been assuring the ministers that he would be faithful to the king's adherents), and made clandestine way to the apartment where Sheridan and Payne were meditating on the advantages of a regency without restriction. On leaving the prince, the wary lawyer used to steal into the king's chamber, and seek guidance or encouragement from the madman's restless eyes. Was the malady curable? If curable, how long a time would elapse before the return of reason? These were the questions which the Chancellor put to himself, as he debated whether he should break with the Tories and go over to the Whigs. Through

the misfortune of a *puisne* justice of the King's Bench, who lost his hat at a Lord Mayor's "dinner to the judges." "Cockburn," the hatless *puisne*, inquired of the Chief Justice, with mingled pathos and flippancy, "where on earth am I to look for my *castor*?" "I am sure I can't say. But can't you contrive to manage with *Pollux*," replied Sir Alexander, pointing to the Chief Baron's hat. Of course, there are several versions of this story.

the action of the patient's disease the most delicate part of the lawyer's occupation was gone; and having no longer a king's conscience to keep, he did not care, by way of diversion—to keep his own.

For many days ere they received clear demonstration of the Chancellor's deceit, the other members of the cabinet suspected that he was acting disingenuously, and when his double-dealing was brought to their sure knowledge, their indignation was not even qualified with surprise. The story of his exposure is told in various ways; but all versions concur in attributing his detection to an accident. Like the gallant of the French court, whose clandestine intercourse with a great lady was discovered because, in his hurried preparations for flight from her chamber, he appropriated one of her stockings, Thurlow, according to one account, was convicted of perfidy by the prince's hat, which he bore under his arm on entering the closet where the ministers awaited his coming. Another version says that Thurlow had taken his seat at the council-table, when his hat was brought to him by a page, with an explanation that he had left it in the prince's private room. A third, and more probable representation of the affair, instead of laying the scene in the council-chamber, makes the exposure occur in a more public part of the castle. "When a council was to be held at Windsor," said the Right Honourable Thomas Grenville, in his old age recounting the particulars of the mishap, "to determine the course which ministers should pursue, Thurlow had been there some time before any of his colleagues arrived. He was to be brought back to London by one of them, and the moment of departure being come, the Chancellor's hat was nowhere to be found. After a fruitless search in the apartment where the council had been held, a page came with the hat in his hand, saying aloud, and with great *naïveté*, 'My Lord, I found it in the closet of his Royal Highness the Prince of Wales.' The other Ministers were still in the Hall, and Thurlow's confusion corroborated the inference which they drew." Cannot an artist be found to place upon canvas this scene, which furnishes the student of human nature with an instructive instance of

"That combination strange—a lawyer and a blush?"

For some days Thurlow's embarrassment and chagrin were

very painful. But a change in the state of the king's health caused a renewal of the lawyer's attachment to Tory principles and to his sovereign.

Bearing testimony to the wisdom and gravity of the Chancellor's aspect, Fox observed—"It proved him dishonest, since no man could be so wise as Thurlow looked." That this Chancellor with a sapient face used to wear his three-cocked hat in court, O'Keefe, the farce-writer, certifies thus:—"I saw Lord Thurlow in court; he was thin, and seemed not well in health; he leaned forward with his elbows on his knees, which were spread wide, and his hands clutched in each other. He had on a large three-cocked hat. His voice was good, and he spoke in the usual judge-style, easy and familiar." Of Thurlow's appearance in the second year of the present century, John Campbell—who in that year saw the broken giant totter into the House of Peers—observes: "At last there walked in, supported by a staff, a figure bent with age, dressed in an old-fashioned grey coat, with breeches and gaiters of the same stuff, a brown scratch-wig, tremendous white bushy eyebrows, eyes still sparkling with intelligence, dreadful 'crows' feet' round them, very deep lines in his countenance, and shrivelled complexion of a sallow hue, all indicating much greater senility than was to be expected from the date of his birth as laid down in the Peerage."

The lawyers of what may be termed the cocked hat period seldom maintained the happy mean between too little and too great care for personal appearance. For the most part they were either slovenly or foppish. From the days when as a student he used to slip into Nando's in a costume that raised the supercilious astonishment of his contemporaries, Thurlow to the last erred on the side of neglect. Camden roused the satire of an earlier generation by the miserable condition of the tie-wig which he wore on the bench of Chancery, and by an undignified and provoking habit of "gartering up his stockings while counsel were the most strenuous in their eloquence." On the other hand Joseph Yates—the puisne judge whom Mansfield's jeers and merciless oppressions drove from the King's Bench to the Common Pleas, where he died within four months of his retreat—was the finest of fine gentlemen. Before he had demonstrated

his professional capacity, the habitual costliness and delicacy of his attire roused the distrust of attorneys, and on more than one occasion wrought him injury. An awkward, crusty, hard-featured attorney entered the foppish barrister's chambers with a bundle of papers, and on seeing the young man in a superb and elaborate evening dress, is said to have inquired, "Can you say, sir, when Mr. Yates will return?" "Return, my good sir!" answered the barrister, with an air of surprise, "I am Mr. Yates, and it will give me the greatest pleasure to talk with you about those papers." Having taken a deliberate survey of the young Templar, and made a mental inventory of all the fantastic articles of his apparel, the honest attorney gave an ominous grunt, replaced the papers in one of the deep pockets of his long-skirted coat, twice nodded his head with contemptuous significance, and then, without another word—walked out of the room. It was his first visit to those chambers, and his last. Joseph Yates lost his client, before he could even learn his name; but in no way influenced by the occurrence he maintained his reputation for faultless taste in dress, and when he had raised himself to the bench, he was amongst the judges of his day all that Revell Reynolds was amongst the London physicians of a later date.

Living in the midst of the fierce contentions which distracted Ireland in the days of our grandfathers, John Toler, first Earl of Norbury, would not have escaped odium and evil repute, had he been a merciful man and a scrupulous judge; but in consequence of failings and wicked propensities, which gave countenance to the slanders of his enemies and at the same time earned for him the distrust and aversion of his political coadjutors, he has found countless accusers and not a single vindicator. Resembling George Jeffreys in temper and mental capacity, he resembled him also in posthumous fame. A shrewd, selfish, overbearing man, possessing wit which was exercised with equal promptitude upon friends and foes, he alternately roused the terror and the laughter of his audiences. At the bar and in the Irish House of Commons he was alike notorious as jester and bully; but he was a courageous bully, and to the last was always as ready to fight with bullets as with epigrams, and though his humour was especially suited to the taste and

passions of the rabble, it sometimes convulsed with merriment those who were shocked by its coarseness and brutality. Having voted for the abolition of the Irish Parliament, the Right Honourable John Toler was prepared to justify his conduct with hair-triggers or sarcasms. To the men who questioned his patriotism he was wont to answer, "Name any hour before my court opens to-morrow," but to the patriotic Irish lady who loudly charged him in a crowded drawing-room with having sold his country, he replied, with an affectation of cordial assent, "Certainly, madam, I have sold my country. It was very lucky for me that I had a country to sell—I wish I had another." On the bench he spared neither counsel nor suitors, neither witnesses nor jurors. When Daniel O'Connell, whilst he was conducting a cause in the Irish Court of Common Pleas, observed, "Pardon me, my lord, I am afraid your lordship does not apprehend me;" the Chief Justice (alluding to a scandalous and false report that O'Connell had avoided a duel by surrendering himself to the police) retorted, "Pardon *me* also; no one is more easily apprehended than Mr. O'Connell"—(a pause—and then with emphatic slowness of utterance)—"whenever he wishes to be apprehended." It is *said* that when this same judge passed sentence of death on Robert Emmett, he paused when he came to the point where it is usual for a judge to add in conclusion, "And may the Lord have mercy on your soul!" and regarded the brave young man with searching eyes. For a minute there was an awful silence in the court; the bar and the assembled crowd supposing that the Chief Justice had paused so that a few seconds of unbroken stillness might add to the solemnity of his last words. The disgust and indignation of the spectators were beyond the power of language, when they saw a smile of brutal sarcasm steal over the face of the Chief Justice as he rose from the seat of judgment without uttering another word. On another occasion, whilst the state prosecutions were going forward, Lord Norbury appeared on the bench in a costume that accorded ill with the gravity of his office. The weather was intensely hot; and whilst he was at his morning toilet the Chief Justice selected from his wardrobe the dress which was most suited to the sultriness of the air. The garb thus selected for its coolness was a dress which

his lordship had worn at a masquerade ball, and consisted of a green tabinet coat decorated with large mother-of-pearl buttons, a waistcoat of yellow relieved by black stripes, and buff breeches. When he first entered the court, and throughout all the earlier part of the proceedings against a party of rebels, his judicial robes altogether concealed this grotesque attire; but unfortunately towards the close of the sultry day's work, Lord Norbury—oppressed by the stifling atmosphere of the court, and forgetting all about the levity as well as the lightness of his inner raiment—threw back his judicial robe and displayed the dress which several persons then present had seen him wear at Lady Castlereagh's ball. Ere the spectators recovered from their first surprise, Lord Norbury, quite unconscious of his indecorum, had begun to pass sentence of death on a gang of prisoners, speaking to them in a solemn voice that contrasted painfully with the inappropriateness of his costume.

In the following bright and picturesque sentence, Dr. Dibdin gives a life-like portrait of Erskine, whose personal vanity was only equalled by the egotism which often gave piquancy to his orations, and never lessened their effect:—"Cocked hats and ruffles, with satin small-clothes and silk stockings, at this time constituted the usual evening dress. Erskine, though a good deal shorter than his brethren, somehow always seemed to take the lead both in pace and in discourse, and shouts of laughter would frequently follow his dicta. Among the surrounding promenaders, he and the one-armed Mingay seemed to be the main objects of attraction. Towards evening, it was the fashion for the leading counsel to promenade during the summer in the Temple Gardens, and I usually formed one in the thronging mall of loungers and spectators. I had analysed Blackstone, and wished to publish it under a dedication to Mr. Erskine. Having requested the favour of an interview, he received me graciously at breakfast before nine, attired in the smart dress of the times, a dark green coat, scarlet waistcoat, and silk breeches. He left his coffee, stood the whole time looking at the chart I had had cut in copper, and appeared much gratified. On leaving him, a chariot-and-four drew up to wheel him to some provincial town on a special retainer. He was then

coining money as fast as his chariot wheels rolled along." Erskine's advocacy was marked by that attention to trifles which has often contributed to the success of distinguished artists. His special retainers frequently took him to parts of the country where he was a stranger, and required him to make eloquent speeches in courts which his voice had never tested. It was his custom on reaching the town where he would have to plead on the following day, to visit the court overnight, and examine its arrangements, so that when the time for action arrived he might address the jury from the most favourable spot in the chamber. He was a theatrical speaker, and omitted no pains to secure theatrical effect. It was noticed that he never appeared within the bar until the *cause célèbre* had been called; and a buzz of excitement and anxious expectation testified the eagerness of the assembled crowd to *see*, as well as to hear, the celebrated advocate. Every article of his bar costume received his especial consideration; artifice could be discerned in the modulations of his voice, the expressions of his countenance, and the movements of his entire body; but the coldest observer did not detect the artifice until it had stirred his heart. Rumour unjustly asserted that he never uttered an impetuous peroration which he had not frequently rehearsed in private before a mirror. About the cut and curls of his wigs, their texture and colour, he was very particular; and the hands which he extended in entreaty towards British juries were always cased in lemon-coloured kid gloves.

Erskine was not more noticeable for the foppishness of his dress than was Lord Kenyon for a sordid attire. Whilst he was a leading advocate within the bar, Lord Kenyon's ordinary costume would have disgraced a copying clerk; and during his later years, it was a question amongst barristers whether his breeches were made of velvet or leather. The wits maintained that when he kissed hands upon his elevation to the Attorney's place, he went to court in a second-hand suit purchased from Lord Stormont's *valet*. In the letter attributed to him by a clever writer in the "Rolliad," he is made to say—"My income has been cruelly estimated at seven, or, as some will have it, eight thousand pounds per annum. I shall save myself the mortification of denying that I am rich, and refer you to the

constant habits and whole tenour of my life. The proof to my friends is easy. My tailor's bill for the last fifteen years is a record of the most indisputable authority. Malicious souls may direct you, perhaps, to Lord Stormont's *valet de chambre*, and can vouch the anecdote that on the day when I kissed hands for my appointment to the office of Attorney General, I appeared in a laced waistcoat that once belonged to his master. I bought the waistcoat, but despise the insinuation; nor is this the only instance in which I am obliged to diminish my wants and apportion them to my very limited means. Lady K—— will be my witness that until my last appointment I was an utter stranger to the luxury of a pocket-handkerchief." The pocket-handkerchief which then came into his possession was supposed to have been found in the pocket of the second-hand waistcoat; and Jekyll always maintained that, as it was not considered in the purchase, it remained the valet's property, and did not pass into the lawyer's rightful possession. This was the only handkerchief which Lord Kenyon is said to have ever possessed, and Lord Ellenborough alluded to it when, in a conversation that turned upon the economy which the income-tax would necessitate in all ranks of life, he observed—"Lord Kenyon, who is not very nice, intends to meet the crisis by laying down his handkerchief."

Of his lordship's way of getting through seasons of catarrh without a handkerchief, there are several stories that would scarcely please the fastidious readers of these volumes.

Of his two wigs (one considerably less worn than the other), and of his two hats (the better of which would not have greatly disfigured an old clothesman, whilst the worse would have been of service to a professional scarecrow) Lord Kenyon took jealous care. The inferior wig was always worn with the better hat, and the more dilapidated hat with the superior wig; and it was noticed that when he appeared in court with the shabbier wig he never removed his *chapeau*; whereas, on the days when he sat in his more decent wig, he pushed his old cocked hat out of sight. In the privacy of his house and in his carriage, whenever he travelled beyond the limits of town, he used to lay aside wig and hat, and cover his head with an old red night-cap. Concerning his great-coat, the original blackness of which

had been tempered by long usage into a fuscous green, capital tales were fabricated. The wits could not spare even his shoes. "Once," Dr. Dibdin gravely narrated, "in the case of an action brought for the non-fulfilment of a contract on a large scale for shoes, the question mainly was, whether or not they were well and soundly made and with the best materials. A number of witnesses were called, one of them, a first-rate character in the gentle craft, being closely questioned, returned contradictory answers, when the Chief Justice observed, pointing to his own shoes, which were regularly bestridden by the broad silver buckle of the day, 'Were the shoes anything like these?' 'No, my lord,' replied the evidence, 'they were a good deal better and more genteeler.'" Dr. Dibdin is at needless pains to assure his readers that the shoemaker's answer was followed by uproarious laughter.

PART VIII.—MUSIC.

CHAPTER XLV.

THE SINGING BARRISTER.

SCHOLASTIC disciplinarians are almost unanimous in regarding a taste for music as a dangerous propensity in the young student. Eighteen years have passed since this writer heard an Oxford tutor implore a freshman, in whom he took friendly as well as professional interest, to cast musical instruments from his room, and to regard the choral service of his college chapel as a temptation rather than as a source of delight. The undergraduate had been found guilty of receiving, entertaining, harbouring, and playing upon a certain cottage-piano which had been placed in his private chamber by a trustful tradesman of the High Street; and in mitigation of judgment the guilty youth, with mingled simplicity and impudence, had urged that his chief motive in ordering the pernicious piece of mechanism was a wish to make his academic cell remind him of his own virtuous home in a distant province. "I urge you again," said dear old Christopher Pontifex, to the great delight of a crowded 'lecture,' who were witnesses of the scene and hearers of the vicegerent's exhortation, "to throw that piece of furniture out of the window, or in some other way place yourself beyond its insidious influence. If you cannot overcome an absurd desire to make your room resemble a lady's drawing-room, retain the piano—but get rid of the works. That would be a step in the right direction. Your vision would be gratified, whilst your mind would escape a poison. In the pleasure which you derive from the sight of a piano, I own myself unable to participate. To me a piano is a gloomy object, surrounded with mournful associations and sad memories. Let me tell

you" (here Pontifex adopted a tone of overpowering solemnity) "the case of a grand-piano has, ere now, been the coffin in which the hopes of a loving parent have been consigned to the grave."

Pontifex was an extreme instance of irritable antagonism to music and its professors. On all other questions he was a tolerant and enlightened man, pacific towards mathematicians, and ready to exchange the courtesies of life with university reformers. But let a single note of music strike his ear, and he forthwith began to chafe and fume. His position in the college was unfavourable to his peace of mind, for his rooms were immediately above those of a musical professor, whilst over his head the bursar kept his quarters and a superb barytone voice. It was the belief of poor Pontifex that these artificers in sound were companions in a vile conspiracy to disturb his peace of mind, and drive him from the college by their abominable practices; and certainly this unfavourable view of his neighbours was supported by the frequency with which the professor's organ and the bursar's voice disturbed him during hours of lecture. Again and again during the term he was compelled to summon his scout and say, "William, be quick and ask Professor Wambleflew if he will do me the kindness to desist from—from—that noise." The bursar's melodious products were seldom of a kind that justified direct expostulation; and as Pontifex had too much prudence to make a fuss about the minor demonstrations of the enemy, he rarely sent his scout to silence the barytone, but consoled himself under its inflictions with an affectation of playful disdain for the vocal enthusiast. "You have reason, gentlemen, to congratulate yourselves on the flourishing state of our college—the bursar is singing," was a form of satiric pleasantry that often gave him relief, and as often raised the laughter of his pupils.

In the Inns of Court, even more often than in the colleges of Oxford and Cambridge, musical instruments and performances are regarded with aversion and abhorrence. Mr. Babbage will live in peace and charity with the organ-grinders who are continually doing him an unfriendly turn, before the industrious conveyancer on the first floor will pray for the welfare of "that fellow upstairs" who daily practises the flute or cornopean from 11 A.M. to 3 P.M. The "Wandering Minstrels" and their

achievements are often mentioned with respect in the western drawing-rooms of London; but if the gentlemen who form that distinguished *troupe* of amateur performers wish to sacrifice their present popularity and take a leading position amongst the social nuisances of the period, they should migrate from the district which delights to honour them to chambers in Old Square, Lincoln's Inn, and give morning concerts every day of term time. Let them make the experiment, and see how long they can persevere in their melodious course without hearing something—to their disadvantage.

Working lawyers feel warmly on this subject, maintaining that no man should be permitted to be an *amateur*-barrister and an *amateur*-musician at the same time, and holding that law-students with a turn for wind-instruments should, like vermin, be hunted down and knocked on the head—without law. Strange stories might be told of the discords and violent deeds to which music has given rise in the four Inns. In the last century many a foolish fellow was "put up" at ten paces, because he refused to lay down an ophicleide; even as late as George IV.'s time death has followed from an inordinate addiction to the violin; and it was but the other day that the introduction of a piano into a house in Carey Street led to the destruction of three close and warm friendships. Those philanthropists, who for the sake of mankind would like to see the entire race of lawyers removed from the land by one clean sweep, should achieve their desire by subjecting the objectionable species to the influences of melody. Music has power to soothe the savage breast; but in the breast of a lawyer, whilst he is at work, it rouses every smouldering spark of ferocity. Under all other circumstances a living illustration of the virtues of Christian civilization, the British lawyer may be transformed into a wild and bloodthirsty savage by the insults of sweet sounds. During the hours of business Cecilia is no Saint, but a malignant Fury, at whose command lawyers are prompt to let loose the dogs of war—a demon at whose instigation the wearers of the long robe would tear one another limb from limb. What orchestral force would be enough to do the business this writer does not venture to say; but no observer of legal nature can doubt that the philanthropists aforementioned

might have their own way with the obnoxious profession if they planted a grand-piano on each staircase of the four Inns, kept brass-bands at full play in the immediate vicinity of our courts of justice, maintained a steady riot in Chancery Lane with hurdy-gurdies and serenaders, and made a lavish distribution of Jews' harps and penny trumpets amongst the more youthful clerks.

So alive are lawyers to the frightful consequences of such a wholesale exhibition of melodious irritants, that a natural desire for self-preservation has prompted them to raise numerous obstructions to the free development of musical science in their peculiar localities of town. In the Inns of Court and Chancery Lane professional etiquette forbids barristers and solicitors to play upon organs, harmoniums, pianos, violins, or other stringed instruments, drums, trumpets, cymbals, shawms, bassoons, triangles, castanets or any other bony devices for the production of noise, flageolets, hautboys, or any other sort of boys—between the hours of 9 A.M. and 6 P.M. And this rule of etiquette is supported by various special conditions introduced into the leases by which the tenants hold much of the local house property. Under some landlords, a tenant forfeits his lease if he indulges in any pursuit that causes annoyance to his immediate neighbours; under others, every occupant of a set of chambers binds himself not to play any musical instrument therein, save between the hours of 9 P.M. and 12 P.M.; and in more than one clump of chambers, situated within a stone's throw from Chancery Lane, glee-singing is not permitted at any period of the four-and-twenty hours.

That the pursuit of harmony is a dangerous pastime for young lawyers cannot be questioned, although a long list might be given of cases where musical barristers have gained the confidence of many clients, and eventually raised themselves to the bench. A piano is a treacherous companion for the student who can touch it deftly—dangerous as an idle friend, whose wit is ever brilliant; fascinating as a beautiful woman, whose smile is always fresh; deceptive as the drug which seems to invigorate, whilst in reality it is stealing away the intellectual powers. Every persevering worker knows how large a portion of his hard work has been done "against the

grain," and in spite of strong inclinations to indolence—in hours when pleasant voices could have seduced him from duty, and any plausible excuse for indulgence would have been promptly accepted. In the piano these pleasant voices are constantly present, and it can always show good reason—why reluctant industry should relax its exertions. After all, Pontifex was not without the support of facts when he likened a piano to a coffin.

As soon as a man is an ascertained professional failure, his friends are quick at discovering a sufficient and shameful cause for his want of success; and he meets their injustice either by attributing his ill fortune altogether to the "slings and arrows of outrageous fortune," or by setting it down to some circumstance which unbiassed bystanders are unable to regard as the cause of disaster. An able but disappointed member of the bar once gravely observed to this writer, "My failure is the consequence of my Cambridge degree; if I had not been amongst the first five wranglers of my year, I should have had clients and become a judge; but the attorneys found out that I was a mathematician." Another good friend said to this witness, "My first step did for me: after my call I took my first set of chambers on a bad staircase; attorneys dislike men who live on bad staircases; before I found out my mistake, the lower order of the profession took a dislike to me—and I never overcame the prejudice." Devotion to the polite arts is the most popular of the many imaginary causes to which barristers without briefs like to attribute the emptiness of their bags. It is a respectable reason, rather flattering to the victim, and not altogether disgraceful to his family. "He *would* give himself up to literature," observed honest George Wildman (M.R.C.S. and L.S.A., a respected medical officer of the Plumfuddle Union, co. Norfolk), when he recently explained why his brother Frank Amontillado Wildman (B.A. Oxon., Barrister-at-law, and the genius of the Wildman family) arrived at signal grief and Bright's disease, just about the time when he ought to have mounted to the woolsack; and this writer lacked the hardihood to speak the truth, and say that the special object of Frank Amontillado's devotion was not literature, but—gin-and-water. Young lawyers are not often ruined by the polite arts. The

fingers of two hands could mark the number of Templars who, possessing the sagacity and perseverance and tact and sound health that are requisite conditions for the achievement of forensic success, have in the present century wasted their powers on *dilettanteism*—and been led away by vanity or foolish imaginations to callings for which they lacked natural fitness.

One clever fellow might, however, be mentioned, who in a certain sense missed success at the bar through the dangerous gifts of a fine ear and taste for music, and an exquisite voice. As well-looking and well-read a young man as ever donned a barrister's gown, Fred Marshman joined the Home Circuit some thirty years since, and forthwith gained more than a lucky junior's "fair share of business." The son of a leading London solicitor, he had all the advantages of a good connexion; and systematic education had given him the special knowledge without which no connexion, however good, can secure a young lawyer success. Fred had moreover good address, some natural eloquence, and a smile that alone would have made his fortune in some departments of life. He could command briefs—and do them justice. Naturally he loved pleasure, but he had shown himself not altogether incapable of self-control. With all these advantages he failed, and indirectly his ruin was brought about by his musical qualifications. It may not be supposed that these qualifications were of any but the highest order. His vocal power was such that the best operatic artists were delighted to sing with him in a private society to which none but the very best musicians could gain admittance. On circuit that voice made him very popular; and unfortunately it made him popular elsewhere. On an evil day, a great countess—no pen can do justice to the lady's social magnitude—heard him sing, and was so charmed with the performance, that she resolved on drawing him to her house, which, thirty years since, was a chief centre of fashionable society in London. It may be that the solicitor's son was snob enough to be dazzled by the splendour of the superb people who were good enough to "take him up." Certain it is that he delighted in his West End *éclat*. He soon became known as "the singing barrister;" and the singing barrister was a familiar visitor at the first houses of the town—

on evenings when the reception-rooms were thronged with company, and also upon occasions when the owners of the "first houses" were open to none but a few especial favourites. When the great people went out of town, the singing barrister went with them. For thrice two years he did his best to be the efficient slave of Fashion and Law, and fearful at times were his exertions in this double servitude; but the struggle was so unsuccessful, that on entering the seventh year after his call he saw pretty clearly that preferment would never come to him through the ordinary channels of professional advancement, unless he turned away from the flatteries of his illustrious patrons and patronesses, and withstood "the allurements of gilded saloons." This sacrifice was beyond his fortitude, and he went on—hoping against hope, that the duke would get him a place, or that the marquis would speak in his behalf to the Prime Minister, or that by some magical process the countess's music-stool would be transformed into a judge's chair.

Ten years since this writer shook hands with poor Fred Marshman, and bade him farewell on the deck of the vessel which carried him out to Australia. For some time he had been losing influence in Mayfair. The grandest of the grand people who took him up at five-and-twenty, resolved to lay him down at five-and-forty years of age; and after many bitter and humiliating experiences—of which there is no need to speak minutely—he had come to the conclusion he ought to try his fortune at the colonial bar. Until the day of his departure from the white cliffs of Old England, he maintained much of his original buoyancy and brilliance; but as he pressed this writer's hand for the last time, an expression of sadness and defeat covered the face on which time had put some ugly marks, and the eyelids which framed his brightening eyes seemed strangely full of crows'-feet. "There, good-by," he said, reading my thoughts; "my hair is growing thin, my whiskers are iron-grey, my face is pasty, I have the body of an alderman, and the voice which ruined me . . . . . Ah! if I hadn't been a singing barrister, I might ere this have been a growling judge."

CHAPTER XLVI.

THE BATTLE OF THE ORGANS.

SIR THOMAS MORE and Lord Bacon—the two most illustrious laymen who have held the Great Seal of England—were notable musicians; and many subsequent Keepers and Chancellors are scarcely less famous for love of harmonious sounds than for judicial efficiency. Lord Keeper Guildford was a musical amateur, and notwithstanding his low esteem of literature, condescended to write about melody. Lord Jeffreys was a good after-dinner vocalist, and was esteemed a high authority on questions concerning instrumental performance. Lord Camden was an operatic composer, and Lord Thurlow studied thorough-bass, in order that he might direct the musical exercises of his children.

In moments of depression More's favourite solace was the viol; and so greatly did he value musical accomplishments in women, that he not only instructed his first and girlish wife to play on various instruments, but even prevailed on the sour Mistress Alice Middleton "to take lessons on the lute, the cithara, the viol, the monochord, and the flute, which she daily practised to him." But More's love of music was expressed still more forcibly in the zeal with which he encouraged and took part in the choral services of Chelsea church—that old parish church of which so much might be said, and of which Mr. Henry Kingsley has written so well in one of his novels. Throughout his residence at Chelsea, Sir Thomas was a regular attendant at the church, and during his tenure of the seals he not only delighted to chant the appointed psalms, but used to don a white surplice, and take his place amongst the choristers. Having invited the Duke of Norfolk to dine with him, the Chancellor prepared himself for the enjoyment of that great

peer's society by attending divine service, and he was still occupied with his religious exercises when his Grace of Norfolk entered the church, and to his inexpressible astonishment saw the keeper of the king's conscience in the flowing raiment of a chorister, and heard him give "Glory to God in the highest!" as though he were a hired singer. "God's body! God's body! My Lord Chancellor a parish clerk?—a parish clerk?" was the duke's testy expostulation with the Chancellor. Whereupon More, with gentle gravity, answered, "Nay; your grace may not think that the king—your master and mine—will with me, for serving his Master, be offended, and thereby account his office dishonoured." Not only was it More's custom to sing in the church choir, but he used also to bear a cross in religious processions; and on being urged to mount horse when he followed the rood in Rogation week round the parish boundaries, he answered, "It beseemeth not the servant to follow his master prancing on a cock-horse, his master going on foot." Few incidents in Sir Thomas More's remarkable career point more forcibly to the vast difference between the social manners of the sixteenth century and those of the present day. If Lord Cranworth were to recreate himself with leading the choristers in Margaret Street, and after service were seen walking homewards in an ecclesiastical dress, it is more than probable that public opinion would declare him a fit companion for the lunatics of whose interests he is the official guardian. Society felt some surprise as well as gratification when Sir Roundell Palmer recently published his "Book of Praise;" but if the Attorney General, instead of printing his select hymns, had seen fit to exemplify their beauties with his own voice from the stall of a church-singer, the piety of his conduct would have scarcely reconciled Lord Palmerston to its dangerous eccentricity.

Amongst Elizabethan lawyers, Chief Justice Dyer was by no means singular for his love of music, though Whetstone's lines have given exceptional celebrity to his melodious proficiency:—

"For publique good, when care had cloid his minde,
The only joye, for to repose his sprights,
Was musique sweet, which showd him well inclind;
For he that doth in musique much delight,

A conscience hath disposed to most right:
The reason is, her sound within our eare
A sympathie of heaven we thinke we heare."

Like James Dyer, Francis Bacon found music a pleasant and salutary pastime, when he was fatigued by the noisy contentions of legal practice, or by strenuous application to philosophic pursuits. A perfect master of the science of melody, Lord Bacon explained its laws with a clearness which has satisfied competent judges that he was familiar with the practice as well as the theories of harmony; but few passages of his works display more agreeably his personal delight and satisfaction in musical exercise and investigation, than that section of the "Natural History" wherein he says, "And besides I practise as I do advise; which is, after long enquiry of things immersed in matter, to interpose some subject which is immateriate or less materiate; such as this of sounds: to the end, that the intellect may be rectified and become not partial."

A theorist as well as performer, the Lord Keeper Guildford enunciated his views regarding the principles of melody in "A Philosophical Essay of Musick, Directed to a Friend"—a treatise that was published without the author's name, by Martin, the printer to the Royal Society, in the year 1677, at which time the future Keeper was Chief Justice of the Common Pleas. The merits of the tract are not great; but it displays the subtlety and whimsical quaintness of the musical lawyer, who performed on several instruments, was very vain of a feeble voice, and used to attribute much of his social success to the constant study of music that marked every period of his life. "I have heard him say," Roger records, "that if he had not enabled himself by these studies, and particular his practice of music upon his bass or lyra viol (which he used to touch lute-fashion upon his knee), to divert himself alone, he had never been a lawyer. His mind was so airy and volatile he could not have kept his chamber if he must needs be there, staked down purely to the drudgery of the law, whether in study or practice; and yet upon such a leaden proposition, so painful to brisk spirits, all the success of the profession, regularly pursued, depends." His first acquaintance with melodious art was made at Cambridge, where in his undergraduate days he

took lessons on the viol. At this same period he "had the opportunity of practice so much in his grandfather's and father's families, where the entertainment of music in full concert was solemn and frequent, that he outdid all his teachers, and became one of the neatest violinists of his time." Scarcely in consistence with this declaration of the Lord Keeper's proficiency on the violin is a later passage of the biography, where Roger says that his brother "attempted the violin, being ambitious of the prime part in concert, but soon found that he began such a difficult art too late." It is, however, certain that the eminent lawyer in the busiest passages* of his laborious life found time for musical practice, and that besides his essay on music, he contributed to his favourite art several compositions which were performed in private concert-rooms.

Sharing in the musical tastes of his family, Roger North, the biographer, was the *friend* who used to touch the harpsichord that stood at the door of the Lord Keeper's bedchamber; and when political changes had extinguished his hopes of preferment, he found consolation in music and literature. Retiring to his seat in Norfolk, Roger fitted up a concert-room with instruments that roused the astonishment of country squires, and an organ that was extolled by critical professors for the sweetness of its tones. In that seclusion, where he lived to extreme old age, the lettered lawyer composed the

* Describing Lord Guildford's mode of life during his tenure of the seals, Roger North says—"He had no kind of vice or immorality within his walls; and of what sort his remissions were (for some are necessary to life) I shall give a fuller account afterwards. But it is decent here to name the chief, which was a solitary, or rather speculative, use of music, of which he formerly took a relish at his going to bed, for which end he had an harpsichord at his bed-chamber door, which a friend touched to his voice. But he cared not for a set of masters to consort it with him. And, unless it were once, under Purcell's conduct, I never knew him use such; for there was somewhat stiff in that way that was not easy." In another part of the biography, Roger North says—"As for his music, I have already mentioned his exquisite hand upon the lyra and bass-viol, and the use he made of it to relieve his solitude in his chamber. He had a desire to use also the theorbo and violin. He scarce attempted the former, but supplied the use of it by the touch of his lyra-viol upon his knee, and so gained a solitary concert with his voice. He attempted the violin, being ambitious of the prime part in concert, but soon found that he began such a difficult art too late; and his profit also said nay to it, for he had not time for that kind of practice. It was a great pity he had not naturally a better voice, for he delighted in nothing more than in the exercise of that he had, which had small virtue but in the tune-

greater part of those writings which have rendered him familiar to the present generation. Of his "Memoirs of Musick," readers are not accustomed to speak so gratefully as of his biographies; but the curious sketch which Dr. Rimbault edited and for the first time published in 1846, is worthy of perusal, and will maintain a place on the shelves of literary collectors by the side of his brother's "Essay."

In that treatise Roger alludes to a contest which in the reigns of Charles II. and James II. agitated the musicians of London, divided the Templars into two hostile parties, and for a considerable time gave rise to quarrels in every quarter of the town. All this disturbance resulted from "a competition for an organ in the Temple church, for which the two competitors, the best artists in Europe, Smith and Harris, were but just not ruined." The struggle thus mentioned in the "Memoirs of Musick," is so comic an episode in the story of London life, and has been the occasion of so much error amongst writers, that it claims brief restatement in the present chapter.

In February, 1682, the Benchers of the Temples, wishing to obtain for their church an organ of superlative excellence, invited Father Smith and Renatus Harris to compete for the honour of supplying the instrument. The masters of the benchers pledged themselves that "if each of these excellent

ableness and skill. He sang anything at first sight, as one that reads in a new book, which many, even singing-masters, cannot do. He was a great troller of songs, especially duets; for in them his brother could accompany him; and the Italian songs to a thorough bass were choice purchases; and, if he liked them, he commonly wrote them out with his own hand. And I can affirm that he transcribed a book of Italian songs into a volume of the largest quarto, and thicker than a common prayer-book. And this was done about the time he had received the Great Seal; for if he would discharge his mind of anxieties, he often took the book of songs and wrote one or two of them out. And, as he went along, he observed well the composition and elegancies, as if he not only wrote but heard them; which was great pleasure to him. His lordship had not been long master of the viol, and a sure concerteer, but he turned composer, and from raw beginnings advanced so far as to complete divers concertos of two and three parts, which, at his grandfather's house, were performed with masters in company; and that was no small joy and encouragement to him. But it was not to be expected he should surmount the style and mode of the great music-master Mr. Jenkins, then in use where he came; and after his capacity reached higher, he had no time to be so diverted. Yet, while he was a Chief Justice, he took a fancy to set to music, in three parts, a canzon of Guarini, beginning thus—*Cor mio del*, &c."

artists would set up an organ in one of the halls belonging to either of the societies, they would have erected in their church that which, in the greatest number of excellences, deserved the preference." For more than twenty years Father Smith had been the first organ-builder in England; and the admirable qualities of his instruments testify to his singular ability. A German artist (in his native country called Bernard Schmidt, but in London known as Father Smith), he had established himself in the English capital as early as the summer of 1660; and gaining the cordial patronage of Charles II., he and his two grand-nephews soon became leaders of their craft. Father Smith built organs for Westminster Abbey, for the Church of St. Giles-in-the-Fields, for St. Margaret's Church, Westminster, for Durham Cathedral, and for other sacred buildings. In St. Paul's Cathedral he placed the organ which Wren disdainfully designated a "box of whistles;" and dying in 1708, he left his son-in-law, Christopher Schreider, to complete the organ which still stands in the chapel of Trinity College, Cambridge. But notwithstanding his greatness, Father Smith had rivals; his first rival being Harris the Elder, who died in 1672, his second being Renatus Harris, or Harris the Younger. The elder Harris never caused Smith much discomfort; but his son, Renatus, was a very clever fellow, and a strong party of fashionable *connoisseurs* declared that he was greatly superior to the German. Such was the position of these two rivals when the benchers made their proposal, which was eagerly accepted by the artificers, each of whom saw in it an opportunity for covering his antagonist with humiliation.

The men went to work; and within fourteen months their instruments were ready for competition. Smith finished work before Harris, and prevailed on the benchers to let him place his organ in the Temple church, well knowing that the powers of the instrument could be much more readily and effectively displayed in the church than in either of the dining-halls. The exact site where he fixed his organ is unknown, but the careful author of "A Few Notes on the Temple Organ, 1859" is of opinion that it was put up "on the screen between the round and oblong churches—the position occupied by the organ until the present organ chamber was built, and the organ removed

there during the progress of the complete restoration of the church in the year 1843." No sooner had Harris finished his organ, than, following Father Smith's example, he asked leave of the benchers to erect it within the church. Harris's petition to this effect bears date May 26, 1684; and soon afterwards the organ was "set up in the Church on the South Side of the Communion Table."

Both organs being thus stationed under the roof of the church, the committee of benchers appointed to decide on their relative merits declared themselves ready—to listen. The trial began, but many months—ay, some years—elapsed ere it came to an end. On either side the credit of the manufacturer was sustained by execution of the highest order of art. Father Smith's organ was handled alternately by Purcell and Dr. Blow; and Draghi, the queen's organist, did his best to secure a verdict for Renatus Harris. Of course the employment of these eminent musicians greatly increased the number of persons who felt personal interest in the contest. Whilst the pupils and admirers of Purcell and Blow were loud in declaring that Smith's organ ought to win, Draghi's friends were equally sure that the organ touched by his expert fingers ought not to lose. Discussion soon became violent; and in every profession, clique, coterie of the town, supporters of Smith wrangled with supporters of Harris. Like the Battle of the Gauges in our time, the Battle of the Organs was the grand topic with every class of society, at Court and on 'Change, in coffee-houses and at ordinaries. Again and again the organs were tested in the hearing of dense and fashionable congregations; and as often the judicial committee were unable to come to a decision. The hesitation of the judges put oil upon the fire; for Smith's friends, indignant at the delay, asserted that certain members of the committee were bound to Harris by corrupt considerations—an accusation that was retorted by the other side with equal warmth and want of justice.

After the squabble had been protracted through many months, Harris created a diversion by challenging Father Smith to make additional reed-stops within a given time. The challenge was accepted; and forthwith the Father went to work and made Vox Humana, Cremorne, Double Courtel, or Double Bassoon,

and other stops. A day was appointed for the renewal of the contest; but party feeling ran so high, that during the night preceding the appointed day a party of hot-headed Harrissians broke into the Temple church, and cut Smith's bellows—so that on the following morning his organ was of no more service than an old linen-press. A row ensued; and in the ardour of debate swords were drawn.

In June, 1685, the benchers of the Middle Temple made a written declaration in favour of Father Smith, and urged that his organ should be forthwith accepted. Strongly and rather discourteously worded, this declaration gave offence to the benchers of the Inner Temple, who regarded it as an attempt at dictation; and on June 22, 1685, they recommended the appointment of another committee with powers to decide the contest. Declining to adopt this suggestion, the Middle Temple Benchers reiterated their high opinion of Smith's instrument. On this the Battle of the Organs became a squabble between the two Temples; and the outside public, laughing over the quarrel of the lawyers, expressed a hope that honest men would get their own since the rogues had fallen out.

At length, when the organ-builders had well-nigh ruined each other, and the town had grown weary of the dispute, the Inner Temple yielded somewhere about the beginning of 1688—at an early date of which year Smith received a sum of money in part payment for his organ. On May 27th of the same year, Mr. Piggott was appointed organist. After its rejection by the Temple, Renatus Harris divided his organ into two, and having sent the one part to the cathedral of Christ Church, Dublin, he set up the other part in the church of St. Andrew, Holborn. Three years after his disappointment, Renatus Harris was tried at the Old Bailey for a political offence, the nature of which may be seen from the following entry in Narcissus Luttrell's Diary:—"April, 1691. The Sessions have been at the Old Bailey, where these persons, Renatus Harris, John Watts, William Rutland, Henry Gandy, and Thomas Tysoe, were tried at the Old Bailey for setting up policies of insurance that Dublin would be in the hands of some other king than their present majesties by Christmas next: the jury found them guilty of a misdemeanour." For this offence

Renatus Harris was fined 200*l.*, and was required to give security for his good conduct until Christmas.

An erroneous tradition assigns to Lord Jeffreys the honour of bringing the Battle of the Organs to a conclusion, and writers, improving upon this tradition, have represented that Jeffreys acted as sole umpire between the contendants. In his "History of Music" Dr. Burney, to whom the prevalence of this false impression is mainly due, observes—"At length the decision was left to Lord Chief Justice Jefferies, afterwards King James the Second's pliant Chancellor, who was of that society (the Inner Temple), and he terminated the controversy in favour of Father Smith; so that Harris's organ was taken away without loss of reputation, having so long pleased and puzzled better judges than Jefferies." Lord Campbell, who never fails to make the most of an opportunity for blundering, says of Jeffreys: "He was not only famous, like the Baron of Bradwardine, for his *chansons à boire*, but he had a scientific skill in music, of which we have proof at this day. There being a great controversy which of the two rival organ-builders, Smith or Harris, should be the artist to supply a new organ to the Temple church, it was agreed that each should send one on trial, and that the Lord Chancellor should decide between them. He decreed for Smith—the deep and rich tones of whose organ still charm us. Harris's went to Wolverhampton, and is said to be of hardly inferior merit." So also Mr. Foss, misled by an untrustworthy narrator of doubtful anecdotes and stale gossip, says of the judge, "that he had some proficiency in music, which sometimes

'Has charms to soothe the savage breast,'

must be presumed from his being chosen in 1681 as the umpire to decide on the relative merits of the two organs offered to the Temple, when he selected that made by Father Smith. The rival instrument went to Wolverhampton." Careful inquirers have ascertained that Harris's organ did not go to Wolverhampton, but to Dublin and St. Andrew's, Holborn, part of it being sent to the one, and part to the other place. It is certain that Jeffreys was not chosen to act as umpire in 1681, for the benchers did not make their original proposal to

the rival builders until February 1682; and years passed between that date and the termination of the squabble. When Burney wrote—"At length the decision was left to Lord Chief Justice Jefferies, *afterwards King James II.'s pliant Chancellor,*" the musician was unaware that the squabble was still at white heat whilst Jeffreys occupied the woolsack. On his return from the Western Campaign, Jeffreys received the seals in September 1685, whereas the dispute about the organs did not terminate till the opening of 1688, or at earliest till the close of 1687. There is no authentic record in the archives of the Temples which supports, or in any way countenances, the story that Jeffreys made choice of Smith's instrument; but it is highly probable that the Lord Chancellor exerted his influence with the Inner Temple (of which society he was a member), and induced the benchers, for the sake of peace, to yield to the wishes of the Middle Temple. It is no less probable that his fine musical taste enabled him to see that the Middle Temple benchers were in the right, and gave especial weight to his words when he spoke against Harris's instrument.

Though Jeffreys delighted in music, he does not seem to have held its professors in high esteem. In the time of Charles II. musical artists of the humbler grades liked to be styled "musitioners;" and on a certain occasion, when he was sitting as Recorder for the City of London, George Jeffreys was greatly incensed by a witness who, in a pompous voice, called himself a musitioner. With a sneer the Recorder interposed—"A musitioner! I thought you were a fiddler!" "I am a musitioner," the violinist answered stoutly. "Oh, indeed!" croaked Jeffreys. "This is very important—highly important—extremely important! And pray, Mr. Witness, what is the difference between a musitioner and a fiddler?" With fortunate readiness the man answered, "As much, sir, as there is between a pair of bagpipes and a recorder."

CHAPTER XLVII.

A THICKNESS IN THE THROAT.

THE date is September, 1805, and the room before us is a drawing-room in a pleasant house at Brighton. The hot sun is beating down on cliff and terrace, beach and pier, on the downs behind the town and the sparkling sea in front. The brightness of the blue sky is softened by white vapour that here and there resembles a vast curtain of filmy gauze, but nowhere has gathered into visible masses of hanging cloud. In the distance the sea is murmuring audibly, and through the screened windows, together with the drowsy hum of the languid waves, comes a light breeze that is invigorating, notwithstanding its sensible warmth.

Besides ourselves there are but two people in the room—a gentlewoman who has said farewell to youth, but not to feminine grace and delicacy; and an old man, who is lying on a sofa near one of the open windows, whilst his daughter plays passages of Handel's music on the piano-forte.

The old man wears the dress of an obsolete school of English gentlemen; a large brown wig with three rows of curls, the lowest row resting on the curve of his shoulders; a loose grey coat, notable for the size of its cuffs and the bigness of its heavy buttons; ruffles at his wrists, and frills of fine lace below his roomy cravat. These are the most conspicuous articles of his costume, but not the most striking points of his aspect. Over his huge, pallid, cadaverous, furrowed face there is an air singularly expressive of exhaustion and power, of debility and latent strength—an air that says to sensitive beholders, "This prostrate veteran was once a giant amongst giants; his fires are dying out; but the old magnificent courage and ability will never altogether leave him until the beatings

of his heart shall have quite ceased; touch him with foolishness or disrespect, and his rage will be terrible." Standing here we can see his prodigious bushy eyebrows, that are as white as driven snow, and under them we can see the large black eyes,* beneath the angry fierceness of which hundreds of proud British peers, assembled in their council-chamber, have trembled like so many whipped schoolboys. There is no lustre in them now, and their habitual expression is one of weariness and profound indifference to the world—a look that is deeply pathetic and depressing, until some transient cause of irritation or the words of a sprightly talker rouse him into animation. But the most noticeable quality of his face is its look of extreme age. Only yesterday a keen observer said of him, "Lord Thurlow is, I believe, only seventy-four; and from his appearance I should think him a hundred years old."

So quiet is the reclining form, that the pianist thinks her father must be sleeping. Turning on the music-stool to get a view of his countenance, and to satisfy herself as to his state, she makes a false note, when, quick as the blunder, the brown wig turns upon the pillow—the furrowed face is presented to her observation, and an electric brightness fills the big black eyes, as the veteran, with deep rolling tones, reproves her carelessness: — "What are you doing? — what are you doing? I had almost forgotten the world. Play that piece again."

Twelve months more;—and the lady will be playing Handel's

* The blackness of Lord Thurlow's eyes was not less remarkable than the whiteness of his eyebrows. When young John Campbell saw him walk feebly into the House of Peers, the ex-Chancellor was in his seventieth year, and "his tremendous white bushy eyebrows" were remembered by the biographer after a lapse of nearly fifty years. Another narrator, describing Lord Thurlow's appearance shortly before his death, observed—"His large black heavy eyes, which he fixes at intervals upon you, are overshadowed with perfectly white eyebrows, and his complexion is pallid and cadaverous." Apparently, Mr. Creevy was much more impressed by the dark eyes than the white brows, for, with strange confusion, he recollected Lord Thurlow as a man remarkable for the blackness of his eyebrows. In his minute and life-like, but on one point instructively inaccurate, portrait of Lord Thurlow, the diarist says—"His black eyebrows exceeded in size any I have ever seen, and his voice, though by no means devoid of melody, was a kind of rolling, murmuring thunder." Mr. Creevy is describing the great Chancellor as he was in the year before that of his death, when his enormous bushy brows had long lost their pristine blackness, and were as white as alabaster.

music on that same instrument; but the old man will not be a listener.

From Brighton, in 1805, let readers transport themselves to Canterbury in 1776, and let them enter a barber's shop, hard by Canterbury Cathedral. It is a primitive shop, with the red and white pole over the door, and a modest display of wigs and puff-boxes in the window. A small shop, but, notwithstanding its smallness, the best shop of its kind in Canterbury; and its lean, stiff, exceedingly respectable master is a man of good repute in the cathedral town. His hands have, ere now, powdered the Archbishop's wig, and he is specially retained by the chief clergy of the city and neighbourhood to keep their false hair in order, and trim the natural tresses of their children. Not only have the dignitaries of the cathedral taken the worthy barber under their special protection, but they have extended their care to his little boy Charles, a demure, prim lad, who is at this present time a pupil in the King's School, to which academy clerical interest gained him admission. The lad is in his fourteenth year; and Dr. Osmund Beauvoir, the master of the school, gives him so good a character for industry and dutiful demeanour, that some of the cathedral ecclesiastics have resolved to make the little fellow's fortune—by placing him in the office of a Chorister. There is a vacant place in the cathedral choir; and the boy who is lucky enough to receive the appointment will be provided for munificently. He will forthwith have a maintenance, and in course of time his salary will be 70*l.* per annum.

During the last fortnight the barber has been in great and constant excitement—hoping that his little boy will obtain this valuable piece of preferment; persuading himself that the lad's thickness of voice, concerning which the choir-master speaks with aggravating persistence, is a matter of no real importance; fearing that the friends of another contemporary boy, who is said by the choir-master to have an exceedingly mellifluous voice, may defeat his paternal aspirations. The momentous question agitates many humble homes in Canterbury; and whilst Mr. Abbott the barber is encouraged to hope the best for his son, the relatives and supporters of the contemporary boy are urging him not to despair. Party spirit prevails on

either side,—Mr. Abbott's family-associates maintaining that the contemporary boy's higher notes resemble those of a penny whistle; whilst the contemporary boy's father, with much satire and some justice, murmurs that "old Abbott, who is the gossip-monger of the parsons,* wants to push his son into a place for which there is a better candidate."

To-day is the eventful day when the election will be made. Even now, whilst Abbott the barber is trimming a wig at his shop-window, and listening to the hopeful talk of an intimate neighbour, his son Charley is chanting the Old Hundredth before the whole chapter. When Charley has been put through his vocal paces, the contemporary boy is requested to sing. Whereupon that clear-throated competitor, sustained by justifiable self-confidence and a new-laid egg which he had sucked scarcely a minute before he made a bow to their reverences, sings out with such richness and compass that all the auditors recognise his great superiority.

Ere ten more minutes have passed, Charley Abbott knows that he has lost the election; and he hastens from the cathedral with quick steps. Running into the shop he gives his father one look that tells the whole story of—failure, and then the little fellow, unable to command his grief, sits down upon the floor and sobs convulsively.

Failure is often the first step to eminence.

* Old Abbott, the Canterbury barber, discharged, for the benefit of the cathedral clergy, the same functions that, in the following century, were so ably discharged for the comfort and well-being of the Templars by Dick Danby, of whom Lord Campbell wrote:—"One of the most intimate friends I have ever had in the world was Dick Danby, who kept a hairdresser's shop under the Cloisters in the Inner Temple. I first made his acquaintance from his assisting me, when a student at law, to engage a set of chambers; he afterwards cut my hair, made my bar wigs, and assisted me at all times with his valuable advice. He was on the same terms with most of my forensic contemporaries. Thus he became master of all the news of the profession; and he could tell who were getting on and who were without a brief—who succeeded by their talents and who hugged the attorneys—who were desirous of becoming puisne judges and who meant to try their fortune in parliament—which of the chiefs was in a failing state of health, and who was next to be promoted to the collar of SS. Poor fellow! he died suddenly, and his death threw a universal gloom over Westminster Hall, unrelieved by the thought that the survivors who mourned him might pick up some of his business—a consolation which wonderfully softens the grief felt for the loss of a favourite Nisi Prius leader."

Had the boy gained the chorister's place, he would have been a cathedral servant all his days.

Having failed to get it, he returned to the King's School, went as a poor scholar to Oxford, and fought his way to honour. He became Chief Justice of the King's Bench, and a peer of the realm. Towards the close of his honourable career Lord Tenterden attended service in the Cathedral of Canterbury, accompanied by Mr. Justice Richardson. When the ceremonial was at an end the Chief Justice said to his friend—"Do you see that old man there amongst the choristers? In him, brother Richardson, behold the only being I ever envied; when at school in this town we were candidates together for a chorister's place; he obtained it; and if I had gained my wish he might have been accompanying you as Chief Justice, and pointing me out as his old schoolfellow, the singing man."

CHAPTER XLVIII.

ACTORS AT THE BAR.

SOME years since the late Serjeant Wilkins was haranguing a crowd of enlightened electors from the hustings of a provincial borough, when a stentorian voice exclaimed, "Go home, you rope-dancer!" Disdaining to notice the interruption, the orator continued his speech for fifty seconds, when the same voice again cried out, "Go home, you rope-dancer!" A roar of laughter followed the reiteration of the insult; and in less than two minutes thrice fifty unwashed blackguards were roaring with all the force of their lungs, "Ah-h-h—Go home, you rope-dancer!" Not slow to see the meaning of the words, the unabashed lawyer, who in his life had been a dramatic actor, replied with his accustomed readiness and effrontery. A young man unacquainted with mobs would have descanted indignantly and with many theatrical flourishes on the dignity and usefulness of the player's vocation; an ordinary demagogue would have frankly admitted the discourteous impeachment, and pleaded in mitigation that he had always acted in leading parts and for high salaries. Serjeant Wilkins took neither of those courses, for he knew his audience, and was aware that his connexion with the stage was an affair about which he had better say as little as possible. Instead of appealing to their generosity, or boasting of his histrionic eminence, he threw himself broadly on their sense of humour. Drawing himself up to his full height, the big, burly man advanced to the marge of the platform, and extending his right hand with an air of authority, requested silence by the movement of his arm. The sign was instantly obeyed; for having enjoyed their laugh, the multitude wished for the rope-dancer's explanation. As soon as the silence was complete, he drew

back two paces, put himself in an oratorical *pose*, as though he were about to speak, and then, disappointing the expectations of the assembly, deliberately raised forwards and upwards the skirts of his frock-coat. Having thus arranged his drapery he performed a slow gyration—presenting his huge round shoulders and unwieldy legs to the populace. When his back was turned to the crowd, he stooped and made a low obeisance to his vacant chair, thereby giving the effect of caricature to the outlines of his most protuberant and least honourable part. This pantomime lasted scarcely a minute; and before the spectators could collect themselves to resent so extraordinary an affront, the serjeant once again faced them, and in a clear, rich, jovial tone exclaimed, "*He* called me a rope-dancer;—after what you have seen, do you believe him?"

With the exception of the man who started the cry, every person in the dense multitude was convulsed with laughter; and till the end of the election no turbulent rascal ventured to repeat the allusion to the serjeant's former occupation. At a moment of embarrassment Mr. Disraeli, in the course of one of his youthful candidatures, created a diversion in his favour by telling a knot of unruly politicians that he *stood on his head.* With less wit, and much less decency, but with equal good fortune, Serjeant Wilkins* took up his position on a baser part of his frame.

The electors who respected Mr. Wilkins because he was a successful barrister, whilst they reproached him with having been a stage-player, were unaware how close an alliance exists

* At Shaftesbury, in Dorsetshire, Serjeant Wilkins was less successful in his endeavours to control an angry election mob. The illegitimate son of a professional man, formerly resident in Shaftesbury, Mr. Wilkins was successively an apothecary's apprentice, a strolling player, a clerk, an agent, before he entered the profession in which he achieved prominence and for many years earned a very large income. Prudence was not one of his characteristics, but he seldom acted more imprudently than when he presented himself before the electors of his native borough, intending to support with racy eloquence one of the competing candidates. Ferocious towards the man who by energy and intellect had raised himself to notoriety and apparent affluence, the rabble would not permit him to be heard for three consecutive minutes without an interruption. In vain the practised speaker exerted all his arts to propitiate the rioters, who remembered that his birth was ignominious, and that his mother had been a washerwoman. For once cowed by contumely, the serjeant turned his back upon his persecutors, and lacked nerve to show them his face again.

between the art of the actor and the art of the advocate. To lawyers of every grade and specialty the histrionic faculty is a useful power; but to the advocate who wishes to sway the minds of jurors it is a necessary endowment. Comprising several distinct abilities, it not only enables the orator to rouse the passions and to play on the prejudices of his hearers, but it preserves him from the errors of judgment, tone, influence —in short, from manifold blunders of indiscretion and tact by which verdicts are lost quite as often as through defect of evidence and merit. Like the dramatic performer, the court-speaker, especially at the common law bar, has to assume various parts. Not only should he know the facts of his brief, but he should thoroughly identify himself with the client for whom his eloquence is displayed. On the theatrical stage mimetic business is cut up into specialties, men in most cases filling the parts of men, whilst actresses fill the parts of women; the young representing the characteristics of youth, whilst actors with special endowments simulate the qualities of old age; some confining themselves to light and trivial characters, whilst others are never required to strut before the scenes with hurried paces, or to speak in phrases that lack dignity and fine sentiment. But the popular advocate must in turn fill every *rôle*. If childish simplicity be his client's leading characteristic, his intonations will express pliancy and foolish confidence; or if it is desirable that the jury should appreciate his client's honesty of purpose, he speaks with a voice of blunt, bluff, manly frankness. Whatever qualities the advocate may wish to represent as the client's distinctive characteristic, it must be suggested to the jury by mimetic artifice of the finest sort. Speaking of a famous counsel, an enthusiastic juryman once said to this writer—"In my time I have heard Sir Alexander in pretty nearly every part: I've heard him as an old man and a young woman; I have heard him when he has been a ship run down at sea, and when he has been an oil-factory in a state of conflagration; once, when I was foreman of a jury, I saw him poison his intimate friend, and another time he did the part of a pious bank director in a fashion that would have skinned the eyelids of Exeter Hall: he ain't bad as a desolate widow with nine children, of which the eldest is under eight

years of age; but if ever I have to listen to him again, I should like to see him as a young lady of good connexions who has been seduced by an officer in the Guards." In the days of his forensic triumphs Henry Brougham was remarkable for the mimetic power which enabled him to describe friend or foe by a few subtle turns of the voice. At a later period, long after he had left the bar, in compliance with a request that he would return thanks for the bridesmaids at a wedding breakfast, he observed, that "doubtless he had been selected for the task in consideration of his youth, beauty, and innocence." The laughter that followed this sally was of the sort which in poetic phraseology is called inextinguishable; and one of the wedding guests who heard the joke and the laughter, assures this writer that the storm of mirthful applause was chiefly due to the delicacy and sweetness of the intonations by which the speaker's facile voice, with its old and once familiar art, made the audience realize the charms of youth, beauty, and innocence—charms which, so far as the lawyer's wrinkled visage was concerned, were conspicuous by their absence.

Eminent advocates have almost invariably possessed qualities that would have made them successful mimics on the stage. For his mastery of oratorical artifices Alexander Wedderburn was greatly indebted to Sheridan, the lecturer on elocution, and to Macklin, the actor, from both of whom he took lessons; and when he had dismissed his teachers and become a leader of the English bar he adhered to their rules, and daily practised before a looking-glass the facial tricks by which Macklin taught him to simulate surprise or anger, indignation or triumph. Erskine was a perfect master of dramatic effect, and much of his richly-deserved success was due to the theatrical artifices with which he played upon the passions of juries. At the conclusion of a long oration he was accustomed to feign utter physical prostration, so that the twelve gentlemen in the box, touched by sympathy for his sufferings and by admiration for his devotion to the interests of his client, might be impelled by generous emotion to return a favourable verdict. Thus when he defended Hardy, hoarseness and fatigue so overpowered him towards the close of his speech, that during the last ten minutes he could not speak above a whisper, and in order that his whis-

pers might be audible to the jury, the exhausted advocate advanced two steps nearer to their box, and then extended his pale face to their eager eyes. The effect of the artifice on the excited jury is said to have been great and enduring, although they were speedily enlightened as to the real nature of his apparent distress. No sooner had the advocate received the first plaudits of his theatre on the termination of his harangue, than the multitude outside the court, taking up the acclamations which were heard within the building, expressed their feelings with such deafening clamour, and with so many signs of riotous intention, that Erskine was entreated to leave the court and soothe the passions of the mob with a few words of exhortation. In compliance with this suggestion he left the court, and forthwith addressed the dense out-door assembly in clear, ringing tones that were audible in Ludgate Hill, at the one end of the Old Bailey, and to the billowy sea of human heads that surged round St. Sepulchre's Church at the other extremity of the dismal thoroughfare.

At the subsequent trial of John Horne Tooke, Sir John Scott, unwilling that Erskine should enjoy a monopoly of theatrical artifice, endeavoured to create a diversion in favour of the government by a display of those lachrymose powers which Byron ridiculed in the following century. "I can endure anything but an attack on my good name," exclaimed the Attorney General, in reply to a criticism directed against his mode of conducting the prosecution; "my good name is the little patrimony I have to leave to my children, and, with God's help, gentlemen of the jury, I will leave it to them unimpaired." As he uttered these words tears suffused the eyes which, at a later period of the lawyer's career, used to moisten the woolsack in the House of Lords—

> "Because the Catholics would not rise,
> In spite of his prayers and his propheeies."

For a moment Horne Tooke, who persisted in regarding all the circumstances of his perilous position as farcical, smiled at the lawyer's outburst with silent amusement; but as soon as he saw a sympathetic brightness in the eyes of one of the jury, the dexterous demagogue with characteristic humour and effrontery accused Sir John Mitford, the Solicitor General, of

needless sympathy with the sentimental disturbance of his colleague. "Do you know what Sir John Mitford is crying about?" the prisoner inquired of the jury. "He is thinking of the destitute condition of Sir John Scott's children, and the *little patrimony* they are likely to divide among them." The jury and all present were not more tickled by the satire upon the Attorney General, than by the indignant surprise which enlivened the face of Sir John Mitford, who was not at all prone to tears, and had certainly manifested no pity for John Scott's forlorn condition.

PART IX.—AMATEUR THEATRICALS.

CHAPTER XLIX.

"THE PLAY'S THE THING."

HENRY VII. is on the throne of England, and Cardinal Morton holds the seals and the royal conscience in his keeping. Possessing the condition and accomplishments of a courtly ecclesiastic, the Cardinal Chancellor is respected by those who from a distance watch his grandeur, and beloved by the favoured persons who witness the virtues of his private life. United in his eminence the Sanctity of the Church and the Grandeur of the Law command the homage of all who either fear God or honour the king. His cardinalate is evidence of the peculiar favour with which he is regarded at Rome; as Archbishop of Canterbury, he is followed with reverence by holy prelates and proud nobles; as the sovereign's Lord High Chancellor he can raise the weak and crush the strong.

It is Christmas-tide; and the Cardinal's palace in Holborn is thronged with lords and ladies, gallant boys and fair girls, smooth priests and crafty placemen, who have assembled in compliance with special invitation or ancient custom to render homage to his holy greatness, to feast at his tables, according to their various degrees, and then to dance beneath the mistletoe. Wise and gracious, the venerable man disdains no innocent art by which the powerful can be led to goodness, or the simple can be made happy; and at the present time he is passing through his reception-rooms, showering words of blessing and courtesy on his numerous guests. A smile lights up his pleasant countenance, as he sees preparations for a play at the end of the gallery. Ere three more minutes have passed he has

taken a seat of state in front of the stage, and is watching the performance of a fantastic interlude. The piece is meagre and unartistic; but it ends amidst the applause of Englishmen whose grandchildren will some of them drink sack with William Shakespeare. The Cardinal laughs right heartily to the prelates and proud dames who have gathered round his seat; and his delight is renewed when a smart lad, wearing a page's dress, the colours of which show that he is in the Archbishop's service, springs lightly upon the stage, and recites a set of witty verses—that having made sprightly fun of players and listeners conclude with a suitable compliment to the host. "By my word, young master, you should wear such a cap as mine," cries the Cardinal's fool,* jingling his bells, and capering up to the beardless performer, of whom he is already jealous.

"Lad, thou hast a merry humour—come hither," says the Cardinal, beckoning to the boy, who in a trice has skipped past the jester and fallen on his knee before the Archbishop.

"My Lord Cardinal," says the boy in a sweet, tremulous voice, "pardon my froward pertness. The pleasure of the revels hath well-nigh put me in a phrensy."

"Thou wearest my livery, child," answers the old man, kindly, placing his hand upon the stripling; "but still I must do thee the slight to ask thy name."

"Thomas More—with your grace's good leave," answers the boy, rising from his knee and bowing gracefully.

* Of Cardinal Morton's fool not much is known; but Wolsey's jester, "Patch," and Sir Thomas More's fool, "Pattison," are familiar friends to every reader of English history. After his fall, Wolsey sent "Patch" as an humble offering to the king, observing to Sir Harry Norris, the king's messenger—"I am sorry that I have no condign token to send to the king; but if you would present the king with this poor fool, I trust his highness would accept him well; for surely, for a nobleman's pleasure, he is worth a thousand pounds." Sir Thomas More's fool was Pattison, whose portrait is a feature of Holbein's well-known picture of the More family; but the few specimens that we possess of the varlet's wit do not make him appear deserving of the compliment thus paid him by the artist. On More's fall, Pattison, passed into the hands of the Lord Mayor of the City of London, and doubtless gave much satisfaction to the citizens. In a note appended to a passage in his memoir of Wolsey, Lord Campbell observes—"A fool was so necessary to the establishment of a Lord Chancellor, that we shall find one in the household of Sir Thomas More. *It is very doubtful when Chancellors ceased to have about them any such character.*" By some persons, familiar with Chancery practice and the Chancery bar, it is maintained that Chancellors have not even yet ceased to have such characters in attendance upon them.

"Ah, true—the son of Sir John More, an honourable and wise judge. Thomas, thou hast wit that will do thy father credit—be mindful to imitate his virtue."

After a few courteous words, the Cardinal dismisses his page; and when the lad, covered with blushes and filled with joy, has withdrawn, the great ecclesiastic says to those next him, "Whosoever shall live to see it—that child will prove a marvellous rare man."*

Following the example set by the nobility in their castles and civic palaces, the Inns of Court set apart certain days of the year for feasting and revelry, and amongst the diversions with which the lawyers recreated themselves at these periods of rejoicing, the rude Pre-Shakespearian dramas took a prominent place. So far back as A.D. 1431 the Masters of the Lincoln's Inn Bench restricted the number of annual revels to four—'one at the feast of All-Hallown, another at the feast of St. Erkenwald; the third at the feast of the Purification of our Lady; and the 4th at Midsummer." The ceremonials of these holidays were various; but the brief and sometimes unintelligible notices of the chroniclers give us sufficiently vivid pictures of the boisterous jollity and riotous excess that marked the proceedings. Miracle plays and moralities, dancing and music, fantastic processions and mad pranks, spurred on the hours that were not devoted to heavy meals and deep potations. In the merriments of the different Inns there was a pleasant diversity—with regard to the duration and details of the entertainments: and occasionally the members of the four societies acted with so little concert that their festivals, falling at exactly the same time, were productive of rivalry and disappointments. Dugdale thinks that the Christmas revels were not regularly kept in Lincoln's Inn during the reign of Henry VIII.; and draws attention to an order made by the benchers of

* "For the Cardinal often would make trial of his present wit, especially at Christmas merriments, when having plays for his recreation, this youth would suddenly step up amongst the players, and never studying before upon the matter, make often a part of his own invention, which was so witty and full of jests, that he alone made more sport than all the players beside; for which his towardliness, the Cardinal much delighted in him, and would say of him unto divers of the nobility who at sundry times dined with him—'This child here, waiting at the table, whosoever shall live to see, will prove a marvellous rare man.'"—*More's Life.*

that house on 27 Nov., 22 H. VIII., the record of which runs thus:—"It is agreed that IF the two Temples do kepe Chrystemas, then the Chrystemas to be kept here; and to know this, the Steward of the House ys commanded to get knowledge, and to advertise my masters by the next day at night."

But notwithstanding changes and novelties, the main features of a revel in an Inn of Court were always much the same. Some member of the society, conspicuous for rank or wit or style, or for a combination of these qualities, was elected King of the Revel, and until the close of the long frolic he was despot and sole master of the position—so long as he did not disregard a few not vexatious conditions by which the benchers limited his authority. He surrounded himself with a mock court, exacted homage from barristers and students, made proclamations to his loyal children, sate on a throne at daily banquets, and never appeared in public without a body-guard, and a numerous company of musicians, to protect his person and delight his ear.*

The wit and accomplishments of the younger lawyers were signally displayed in the dramatic interludes that usually enlivened these somewhat heavy and sluggish jollifications.

* Of the "Christmasses" at Lincoln's Inn, Dugdale says, "I shall here only in brief observe: that the first order wherewith I have met, which maketh any mention of these solemnities at this House, was in 9 Hen. 8, it being then agreed and ordained that he who should after that time be chosen King on Christmas Day ought then to occupy the said room, if he were present; and in his absence, of the marshal, for the time being, by the advice of the utter barristers present, to name another. And for learning of young gentlemen to do service, that the marshal should sit as King on New Year's Day, and have like service as on Christmas Day; and the Master of the Revells, during dinner time, supply the marshal's room. Moreover, that the King of Cockneys, on Childermas Day, should sit and have due service; and that he and all his officers should use honest manner and good order, without any waste or destruction making, in wine, brawn, chely, or other vitails; as also, that he and his marshal, butler, and constable marshal, should have their lawful and honest commandments by delivery of the officers of the Christmas; and that the said King of Cockneys, ne none of his officers, medyl in the buttery, nor in the stuard of Christmas his office, upon pain of 40*s.* for every such meddling. And, lastly, that Jack Straw, and all his adherents, should be thenceforth utterly banisht, and no more to be used in this house, upon pain to forfeit for every time five pounds, to be levied on every fellow hapning to offend against this rule." These prohibitory ordinances are conclusive testimony that even so early as the ninth year of Henry VIII. the revels had produced excesses in their nature similar to those more scandalous abuses against which Symonds D'Ewes exclaimed in the following century.

Not only did they write the pieces, and put them before the audience with cunning devices for the production of scenic effect, but they were their own actors. It was not long before their "moralities" were seasoned with political sentiments and allusions to public affairs. For instance, when Wolsey was in the fulness of his power, Serjeant Roo ventured to satirize the Cardinal in a masque with which Gray's Inn entertained Henry VIII. and his courtiers. Hall records that, "This plaie was so set furth with riche and costlie apparel, with strange diuises of maskes and morrishes, that it was highly praised of all menne saving the Cardinall, whiche imagined that the plaie had been deuised of him, and in greate furie sent for the said Maister Roo, and toke from hym his coife, and sent him to the Flete, and after he sent for the yoong gentlemen that plaied in the plaie, and them highly rebuked and threatened, and sent one of them, called Thomas Moyle, of Kent, to the Flete; but by means of frendes Master Roo and he wer deliuered at last." The author stoutly denied that he intended to satirize the Cardinal; and the chronicler, believing the serjeant's assertions, observes, "This plaie sore displeased the Cardinall, and yet it was never meant to him." That the presentation of plays was a usual feature of the festivals at Gray's Inn, may be inferred from the passage where Dugdale, in his notes on that society, says:—"In 4 Edw. VI. (17 Nov.), it was also ordered that henceforth there should be no comedies called *Interludes* in this House out of Term time, but when the Feast of the Nativity of our Lord is solemnly observed. And that when there shall be any such comedies, then all the society at that time in commons to bear the charge of the apparel."

Notwithstanding her anxiety for the maintenance of good discipline in the Inns of Court, Queen Elizabeth encouraged the Societies to celebrate their feasts with costliness and liberal hospitality, and her taste for dramatic entertainments increased the splendour and frequency of theatrical diversions amongst the lawyers. Christopher Hatton's name is connected with the history of the English drama, by the acts which he contributed to "The Tragedie of Tancred and Gismunda, compiled by the gentlemen of the Inner Temple, and by them presented

before her majestie;" and he was one of the chief actors in that ponderous and extravagant mummery with which the Inner Temple kept Christmas in the fourth year of Elizabeth's reign.

The circumstances of that festival merit special notice.

In the third year of Elizabeth's reign the Middle Temple and the Inner Temple were at fierce war, the former society having laid claim to Lyon's Inn, which had been long regarded as a dependency of the Inner Temple. The two Chief Justices, Sir Robert Catlyn and Sir James Dyer, were known to think well of the claimant's title, and the masters of the Inner Temple bench anticipated an adverse decision, when Lord Robert Dudley (afterwards Earl of Leicester) came to their relief with an order from Queen Elizabeth enjoining the Middle Templars no longer to vex their neighbours in the matter. Submission being the only course open to them, the lawyers of Middle Temple desisted from their claim; and the Masters of the Inner Temple Bench expressed their great gratitude to Lord Robert Dudley, "by ordering and enacting that no person or persons of their society that then were, or thereafter should be, should be retained of councell against him the said Lord Robert, or his heirs; and that the arms of the said Lord Robert should be set up and placed in some convenient place in their Hall as a continual monument of his lordship's favour unto them."

Further honours were paid to this nobleman at the ensuing Christmas, when the Inner Temple held a revel of unusual magnificence, and made Lord Robert the ruler of the riot. Whilst the holidays lasted the young lord's title and style were "Pallaphilos, Prince of Sophie, High Constable Marshal of the Knights Templars, and Patron of the Honourable Order of Pegasus." And he kept a stately court, having for his chief officers—Mr. Onslow (Lord Chancellor), Anthony Stapleton (Lord Treasurer), Robert Kelway (Lord Privy Seal), John Fuller (Chief Justice of the King's Bench), William Pole (Chief Justice of the Common Pleas), Roger Manwood (Chief Baron of the Exchequer), Mr. Bashe (Steward of the Household), Mr. Copley (Marshall of the Household), Mr. Paten (Chief Butler), Christopher Hatton (Master of the Game),

Messieurs Blaston, Yorke, Penston, Jervise (Masters of the Revells), Mr. Parker (Lieutenant of the Tower), Mr. Kendall (Carver), Mr. Martyn (Ranger of the Forests), and Mr. Stradling (Sewer). Besides these eighteen placemen, Pallaphilos had many other mock officers, whose names are not recorded, and he was attended by a body-guard of fourscore members of the Inn.

From the pages of Gerard Leigh* and Dugdale, the reader

* The account given of this superb Christmas Revel by Gerard Leigh, in his "Accidence of Armory," runs thus:—"After I had travailed through the east parts of the unknow world, to understand of deedes of armes, and so arriving in the fair river Thames, I landed within half a league from the city of London; which was (as I conjecture) in December last; and drawing near the city, suddenly heard the shot of double cannons, in so great a number and so terrible, that it darkened the whole ayr; wherewith, although I was in my native country, yet stood I amazed, not knowing what it meant. Thus, as I abode in despair, either to return or continue my former purpose, I chanced to see coming towards me an honest citizen, clothed in a long garment, keeping the highway, seeming to walk for his recreation, which prognosticated rather peace than perill; of whom I demanded the cause of this great shot; who friendly answered. 'It is,' quoth he, a 'warning shot to the Constable Marshal of the Inner Temple to prepare to dinner.' 'Why,' said I, 'what is he of that estate that seeketh no other means to warn his officers than with so terrible a shot in so peaceable a country?' 'Marry,' saith he, 'he uttereth himself the better to be that officer whose name he beareth.'

"I then demanded what province did he govern that needeth such an officer. He answered me, the province was not great in quantity, but antient in true nobility. 'A place,' saith he, 'privileg'd by the most excellent Princess the High Governour of the whole island, wherein are store of gentlemen of the whole realm, that repair thither to learn to rule and obey by law, to yield their fleece to their prince and commonweal; as also to use all other exercises of body and mind whereunto nature most ably serveth to adorn, by speaking, countenance, gesture, and use of apparel, the person of a gentleman; whereby amity is obtained and continued, that gentlemen of all countries in their young years, nourished together in one place, with such comely order and daily conference, are knit by continual acquaintance in such unity of mindes and manners as lightly never is severed, than which is nothing more profitable to the commonweal.'

"And after he had told me thus much of honour of the place, I commended in my own conceit the policy of the governour, which seemed to utter in itself the foundation of a good commonweal; for that the best of their people from tender years trained up in precepts of justice, it could not choose but yield forth a profitable people to a wise commonweal; wherefore I determined with myself to make proof of what I heard by report.

"The next day I thought for my pastime to walk to this Temple, and entering in at the gates, I found the building nothing costly; but many comely gentlemen of face and person, and thereto very courteous, saw I to pass to and fro, so as it seemed a prince's port to be at hand; and passing forward entered into a church of antient building, wherein were many monuments of noble personages, armed in knightly

can obtain a sufficiently minute account of the pompous ceremonials and heavy buffooneries of the season. He may learn some of the special services and contributions which Prince Pallaphilos required of his chief courtiers, and take note how Mr. Paten, as Chief Butler, had to provide seven dozen silver and gilt spoons, twelve dozen silver and gilt salt-cellars, twenty silver and gilt candlesticks, twenty fine large table-cloths of damask and diaper, twenty dozen white napkins, three dozen

habit, with the cotes depainted in ancient shields, whereat I took great pleasure to behold. Thus gazing as one bereft with the rare sight, there came upon me an Herehaught, by name Palaphilos, a king of armes, who courteously saluted me, saying, 'for that I was a stranger, and seeming by my demeanour a lover of Honour, I was his guest of right;' whose courtesy (as reason was) I obeyed, answering I was at his commandment.

"Then said he, 'ye shall go to mine own lodging here within the palace, where we will have such cheer as the time and country will yield us:'—where I assure you I was so entertained as nowhere met I with better company and cheer.

"Thus talking, we entred the Prince his hall, where anon we heard the noise of drum and fife. 'What meaneth this drum?' said I. Quoth he, 'This to warn gentlemen of the houshold to repair to the dresser. Wherefore, come with me, and ye shall stand where ye may best see the hall served;' and so from thence brought me into a long gallery that stretched itself along the hall near the Prince's table, where I saw the Prince sit; a man of tall personage, a manly countenance, somewhat brown in visage, strongly featured, and thereto comely proportioned in all lineaments of body. At the nether end of the same table were placed the embassadors of sundry princes. Before him stood the carver, server, and cup-bearer, with great number of gentlemen wayters attending his person; the ushers making place to strangers of sundry regions, that came to behold the honour of this mighty captain. After the placing of these honourable guests, the Lord Steward, Treasurer, and Keeper of Pallas seal, with divers honourable personages of that nobility, were placed at a side-table near adjoining the Prince on the right hand; and at another table on the left side were placed the Treasurer of the Household, Secretary, the Prince his Serjeant-at-Law, four Masters of the Revels, the King of Armes, the Dean of the Chappel, and divers gentlemen pensioners to furnish the same.

"At another table on the other side were set the Master of the Game, and his Chief Ranger, Masters of the Household, Clerks of the Green Cloth and Check, with divers other strangers to furnish the same.

"On the other side against them began the table, the Lieutenant of the Tower, accompanied with divers chaplains of Footbands and Shot. At the nether end of the hall began the table, the High Butler, the Panter, Clerks of the Kitchin, Master Cook of the Privy Kitchin, furnished throughout with the souldiers and guard of the Prince; all which, with number of inferior officers placed and served in the hall, besides the great resort of strangers, I spare to write.

"The Prince so served with tender meats, sweet fruits, and dainty delicates confectioned with curious cookery, as it seemed wonder a world to observe the provisions; and at every course the trumpetters blew the courageous blast of deadly war, with

fair large towels, twenty dozen white cups and green pots, to say nothing of carving-knives, carving-table, tureens, bread, beer, ale, and wine. The reader also may learn from those chroniclers how the company were placed according to degrees at different tables; how the banquets were served to the sound of drums and fifes; how the boar's head was brought in upon a silver dish; how the gentlemen in gowns, the trumpeters, and other musicians followed the boar's head in stately procession; and how, by a rule somewhat at variance with modern

noise of drum and fyfe, with the sweet harmony of violins, sackbutts, recorders, and cornetts, with other instruments of musick, as it seemed Apollo's harp had tuned their stroke.

"Thus the hall was served after the most antient order of the Island, in commendation whereof I say I have also seen the service of great princes, in solemn seasons and times of triumph, yet the order hereof was not inferior to any.

"But to proceed, the Herehaught Palaphilos, even before the second course came in, standing at the high table, said in this manner—'The mighty Palaphilos, Prince of Sophie, High Constable Marshall of the Knights Templars, Patron of the Noble Order of Pegasus,' and therewith cryeth a largess. The Prince, praysing the herehaught, bountifully rewarded him with a chain to the value of a hundred talents.

"I assure you I languish for want of cunning ripely to utter what I saw so orderly handled appertaining to service; wherefore I cease, and return to my purpose.

"The supper ended and the tables taken up, the High Constable rose, and a while stood under the place of honour, where his achievement was beautifully embroidered, and devised of sundry matters with the ambassadors of forein nations, as he thought good, till Palaphilos, king at armes, came in, his herehaught, Marshall, and Pursuivant before him; and after followed his Messenger and Caligate Knight, who, putting off his coronal, made his humble obeysance to the Prince, by whom he was commanded to draw near and understand his pleasure; saying to him in a few words to this effect:—'Palaphilos, seeing it hath pleased the high Pallas to think me to demerit the office of this place; and thereto this night hast vouchsafed to descend from Heavens to increase my further honour by creating me Knight of her order of Pegasus; as also commanded me to join in the society such valiant gentlemen throughout her province, whose living honour hath best deserved the same, the choice whereof most aptly belongeth to your skill, being the watchman of their doings and register of their deserts, will ye chose as well throughout your whole armyes, as elsewhere, of such speciall gentlemen as the gods have appointed the number of xxiiii, and the names of them present us; and commanding also those chosen persons to appear in our presence in knightly habit, that with conveniency we may proceed to our purpose.' This done, Palaphilos, obeying his prince's commandment, with 24 valiant knights, all apparelled in long white vestures, with each man a scarf of Pallas colours, and them presented with their names to the Prince, who allowed well his choice, and commanded him to do his office. Who, after his duty to the Prince, bowed towards those worthy personages, standing every man in his antienty, as he had borne armes in the field, and began to show his Prince's pleasure with the honour of the order."—Gerard Leigh's *Accidence of Armoury;* to which work the reader is now referred.

notions concerning old English hospitality, strangers of worth were expected to pay in cash for their entertainment, eightpence per head being the charge for dinner on the day of Christmas Eve, and twelve-pence being demanded from each stranger for his dinner on the following day.

Ladies were not excluded from all the festivities; though it may be presumed they did not share in all the riotous meals of the period. It is certain that they were invited, together with young law-students from the Inns of Chancery, to see a play and a masque acted in the hall; that seats were provided for their special accommodation in the hall whilst the sports were going forward; and that at the close of the dramatic performances the gallant dames and pretty girls were entertained by Pallaphilos in the library with a suitable banquet; whilst the mock Lord Chancellor, Mr. Onslow, presided at a feast in the hall, which with all possible speed had been converted from theatrical to more appropriate uses.

Doubtless the revellers, old and young, enjoyed themselves thoroughly; doubtless many a girl lost her heart to the student who stood by her side during the play, sighing like a furnace, or who from the other side of the theatre had caught her glances, and pointed the amorous fancies of the masque. It is pleasant to think how the boys and lasses danced to the minstrelsy, flirted, squeezed hands, changed hearts, and vowed the vows of true lovers. There is joy—mad joy—in the face of that lad there—*there*, behind the screen—three hundred years away in the past—who has just stolen one of Blanche Copley's cherry ribands, and paid her for it with a kiss.

But though the fun was rare and the array was splendid to idle folk of the sixteenth century, modern taste would deem such gaiety rude and wearisome, would call the ladies' banquet a disorderly scramble, and think the whole frolic scarce fit for schoolboys. And in many respects those revels of olden time were indecorous, noisy, comfortless affairs. There must have been a sad want of room and fresh air in the Inner Temple dining-hall, when all the members of the inn, the selected students from the subordinate Inns of Chancery, and half a hundred ladies (to say nothing of Mr. Gerard Leigh and illustrious strangers), had crowded into the space set apart for the

audience. At the dinners what wrangling and tumult must have arisen through squabbles for place, and the thousand mishaps that always attend an endeavour to entertain five hundred gentlemen at dinner in a room barely capacious enough for the proper accommodation of a hundred and fifty persons. Unless this writer greatly errs, spoons and knives were in great request, and table linen was by no means "fair and spotless" towards the close of the rout.

It would be wearisome to enumerate all the fantastic costumes of the revellers; but two or three glimpses of the Christmas Day pageantry will present the tinsel and mummery of the entire revel to every active imagination.

Superb, on that holyday, was the aspect of Prince Pallaphilos. Wearing a complete suit of elaborately wrought and richly gilt armour, he bore above his helmet a cloud of curiously dyed feathers, and held a gilt pole-axe in his right hand. By his side walked the Lieutenant of the Tower (Mr. Parker), clad in white armour, and like Pallaphilos furnished with feathers and a pole-axe. On entering the hall the prince and his Lieutenant of the Tower were preceded by sixteen trumpeters (at full blare), four drummers (at full drum), and a company of fifers (at full whistle), and followed by four men in white armour, bearing halberds in their hands. Thrice did this procession march round the fire that blazed in the centre of the hall; and when in the course of these three circuits the four halberdiers and the musicians had trodden upon everybody's toes (their own included), and when moreover they had blown themselves out of time and breath, silence was proclaimed; and Prince Pallaphilos, having laid aside his pole-axe and his naked sword and a few other trifles, took his seat at the urgent entreaty of the mock Lord Chancellor.

But Kit Hatton's appearance and part in the proceedings were even more outrageously ridiculous. The future Lord Chancellor of England was then a very elegant and witty young fellow, proud of his quick humour and handsome face, but far prouder of his exquisitely proportioned legs. No sooner had Prince Pallaphilos taken his seat, at the Lord Chancellor's suggestion, than Kit Hatton (as master of the game) entered the hall, dressed in a complete suit of green velvet, and hold-

ing a green bow in his left hand. His quiver was supplied with green arrows, and round his neck was slung a hunting-horn. By Kit's side, arrayed in exactly the same style, walked the Ranger of the Forests (Mr. Martyn); and having forced their way into the crowded chamber, the two young men blew three blasts of venery upon their horns, and then paced three times round the fire. Having thus paraded the hall they paused before the Lord Chancellor, to whom the Master of Game made three curtsies, and then on his knees proclaimed the desire of his heart to serve the mighty Prince Pallaphilos.

That which followed is even more ludicrous to Templars of the present generation.

Having risen from his kneeling posture Kit Hatton blew his horn, and at the signal his huntsman entered the room, bringing with him a fox, a cat, and ten couples of hounds. Forthwith the fox was released from the pole to which it was bound; and when the luckless creature had crept into a corner under one of the tables, the ten couples of hounds were sent in pursuit. It is a fact that English gentlemen in the sixteenth century thus amused themselves with a fox-hunt in a densely crowded dining-room. Over tables and under tables, up the hall and down the hall, those score hounds went at full cry after a miserable fox, which they eventually ran into and killed in the cinder-pit, or as Dugdale expresses it, "beneath the fire." That work achieved, the cat was turned off, and the hounds sent after her, with much blowing of horns, much cracking of whips, and deafening cries of excitement from the gownsmen, who tumbled over one another in their eagerness to be in at the death.

The masque may have been poor and badly played; but it cannot have been so scandalously foolish as this fox-and-cat-hunt.

CHAPTER L.

THE RIVER AND THE STRAND BY TORCHLIGHT.

SCARCELY less out of place in the dining-hall than Kit Hatton's hounds, was the mule fairly mounted on which the Prince Pallaphilos made his appearance at the High Table after supper, when he notified to his subjects in what manner they were to disport themselves till bedtime. Thus also when the Prince of Purpoole kept his court at Gray's Inn, A.D. 1594, the prince's champion rode into the dining-hall upon the back of a fiery charger which, like the rider, was clothed in a panoply of steel. In the "Gesta Grayorum" there is no statement tending to throw ridicule on the champion's appearance on this occasion; but horses are such timid, uncanny creatures in a novel scene,*

* At the last coronation which required his services, the Hereditary Champion of England met with a droll discomfiture. Wishing to provide himself with a steed that could be relied upon to observe the rules of court etiquette, he had recourse to the proprietor of a well-known equestrian *troupe*, and hired a horse noted for the ease and grace of his retrograde paces. Mounted on this animal, the Hereditary Champion rode towards the entrance of Westminster Hall, confident that when the moment for "backing" arrived, his beast would retire from the presence of royalty like a true courtier. But as ill-luck would have it, the creature backed too soon, and insisted on backing with two legs, instead of with four. No sooner had the champion ridden under the arch, than the bray of trumpets which announced his appearance was mistaken by the highly-educated quadruped for the signal at which, in the discharge of his ordinary professional duties, he was expected to face about, rise on his hind legs, and back across the circus. Obedient to the misapprehended sound, the horse suddenly shied round, stood on his hind legs like a Christian, and to the lively horror and commotion of the courtly multitude, backed right up the hall with his tail towards the sovereign of the realm. Gorgeous heralds approached the beast, and were waved off by his forelegs; in vain the hereditary champion pulled at the bridle. Fortunately, the warrior's embarrassment was not of long duration, for again mistaking a trumpet-bray for a circus signal, the horse twisted sharp round and backed in the contrary direction. Such was the Hereditary Champion's last official appearance in Westminster Hall.

that if the champion contrived to back out of the hall without disaster he may be deemed fortunate.

In costliness and riotous excess the Prince of Purpoole's revel at Gray's Inn was not inferior to any similar festivity in the time of Elizabeth. On the 20th of December, St. Thomas's Eve, the Prince (one Master Henry Holmes, a Norfolk gentleman) took up his quarters in the Great Hall of the Inn, and by the 3rd day of January the grandeur and comicality of his proceedings had created so much talk throughout the town that the Lord Treasurer Burghley, the Earls of Cumberland, Essex, Shrewsbury, and Westmoreland, the Lords Buckhurst, Windsor, Sheffield, Compton, and a magnificent array of knights and ladies visited Gray's Inn Hall on that day and saw the masque which the revellers put upon the stage. After the masque there was a banquet, which was followed by a ball. On the following day the Prince, attended by eighty gentlemen of Gray's Inn and the Temple (each of the eighty wearing a plume on his head), dined in state with the Lord Mayor and aldermen of the City, at Crosby Place. The frolic continued for many days more; the royal Purpoole on one occasion visiting Blackwall with a splendid retinue, on another (Twelfth Night) receiving a gallant assembly of lords, ladies, and knights, at his court in Gray's Inn, and on a third (Shrovetide) visiting the queen herself at Greenwich, when Her Majesty warmly applauded the masque set before her by the actors who were members of the Prince's court. So delighted was Elizabeth with the entertainment, that she graciously allowed the masquers to kiss her right hand, and loudly extolled Gray's Inn "as an house she was much indebted to, for it did always study for some sports to present unto her; whilst to the mock Prince she showed her favour, by placing in his hand the jewel (set with seventeen diamonds and fourteen rubies) which he had won by valour and skill in the tournament which formed part of the Shrovetide sports.

Numerous entries in the records of the inns testify to the importance assigned by the olden lawyers to their periodic feasts; and though in the fluctuations of public opinon with regard to the effects of dramatic amusements, certain benchers, or even all the benchers of a particular inn, may be found at

times discountenancing the custom of presenting masques, the revels were usually diversified and heightened by stage-plays. Not only were interludes given at the high and grand holidays styled "*Solemn Revels,*" but also at the minor festivities termed "Post Revels" they were usually had recourse to for amusement. "Besides those *solemn revels,* or measures aforesaid," says Dugdale, concerning the old usages of the 'Middle Temple,' "they had wont to be entertained with Post Revels performed by the better sort of the young gentlemen of the society, with galliards, corrantoes, and other dances, or else with stage-plays; the first of these feasts being at the beginning, and the other at the later end of Christmas. But of late years these Post Revells have been disused, both here and in the other Inns of Court."

Besides producing and acting some of our best Pre-Shakespearian dramas,* the Elizabethan lawyers put upon the stage

* Of these dramas, "The Tragedie of Ferrex and Porrex," or, according to its first title, "The Tragedy of Gorboduc," is perhaps the most important, as an early contribution to the tragic drama of England. Written for the Grand Revell of Prince Pallaphilos by Thomas Sackville (afterwards Lord Buckhurst) and Thomas Norton, two barristers of the Inner Temple, it was played before Queen Elizabeth by barristers of that inn on January 13, 1561. The next ten years saw several dramas from the pens of Inns of Court men. Richard Edwards, of Lincoln's Inn, wrote "The most Excellent Comedie of Two the most faithfullest friends, Damon and Pythias," which probably was played at Oxford before Elizabeth, in 1566, and unquestionably was presented to her Majesty in 1571, "by the children of her Grace's chapel." "Supposes" and "Jocasta," the former a comedy adapted from Ariosto, the latter a tragedy borrowed from Euripides, came from George Gascoyne (aided by Christopher Yelverton and Francis Kinnelmersh), who also wrote the masque which was exhibited before Elizabeth at Kenilworth Castle, in 1575. "Tancred and Gismunda," to which Christopher (subsequently Lord Chancellor) Hatton contributed the Fourth Act, was acted in her Majesty's presence by Inner Templars, in 1568. Mr. Pearce is of opinion that "Diana and Pallas" was performed by gentlemen of Gray's Inn, at Shrovetide, 1565, when they entertained the queen with "divers shows." Towards the close of her reign, she seems to have been no less ready to find pleasure in the diversions of the stage; for in the thirtieth year of her rule, she was entertained with "certain devises and shewes" by the gentlemen of Gray's Inn, on which occasion Thomas Hughes's play, setting forth the misfortunes of Arthur Uther, Pendragon's son, was worthily presented. William Fulbecke (a gentleman of much sprightliness in his day) penned two choruses for the first and second acts of the play; and the mighty brain of Francis Bacon condescended to assist in dressing "the dumb shews" for the queen's diversion. But the choicest and most artistic of the Inns of Court masques belonging to this period of English literature is the "Inner Temple Masque," written by William Browne.

at least one of William Shakespeare's plays. From the diary of a barrister (supposed to be John Manningham, of the Middle Temple), it is learnt that the Middle Templars acted Shakespeare's 'Twelfth Night' at the Readers' feast on Candlemas Day, 1601-2. The entry runs thus:—"Feb. 2, 1601-(2). At our feast we had a play called *Twelve Night, or What You Will,* much like the *Comedy of Errors,* or *Menechmi* in Plautus, but most like, and neere to that in Italian called *Inganni.* A good practice in it to make the steward believe his widdowe was in love with him, by counterfayting a letter as from his lady; in generall termes telling him what shee liked best in him, and prescribing his gestures, inscribing his apparaile, &c.; and then when he came to practise, making him believe they tooke him to be mad."

In the following reign the masques of the lawyers in no degree fell off with regard to splendour. Seldom had the Thames presented a more picturesque and exhilarating spectacle than it did on the evening of February 20, 1612, when the gentlemen masquers of Gray's Inn and the Temple entered the king's royal barge at Winchester House, at seven o'clock, and made the voyage to Whitehall, attended by hundreds of barges and boats, each vessel being so brilliantly illuminated that the lights reflected upon the ripples of the river seemed to be countless. As though the hum and huzzas of the vast multitude on the water were insufficient to announce the approach of the dazzling pageant, guns marked the progress of the revellers, and as they drew near the palace all the attendant bands of musicians played the same stirring tune with uniform time. It is on record that the king received the amateur actors with an excess of condescension, and was delighted with the masque which Master Beaumont, of the Inner Temple, and his friend, Master Fletcher, had written and dedicated "to the worthy Sir Francis Bacon, his Majesty's Solicitor General, and the grave and learned bench of the anciently-called houses of Grayes Inn and the Inner Temple, and the Inner Temple and Grayes Inn." The cost of this entertainment was defrayed by the members of the two inns—each reader paying 4*l.*; each ancient, 2*l.* 10*s.*; each barrister, 2*l.*; and each student, 20*s.*

The Inner Temple and Gray's Inn having thus testified

their loyalty and dramatic taste, in the following year on Shrove-Monday night (Feb. 15, 1613), Lincoln's Inn and the Middle Temple, with no less splendour and *éclat*, enacted at Whitehall a masque written by George Chapman. For this entertainment Inigo Jones designed and perfected the theatrical decorations in a style worthy of an exhibition that formed part of the gaieties with which the marriage of the Palsgrave with the Princess Elizabeth was celebrated. And though the masquers went to Whitehall by land, their progress was not less pompous than the procession which had passed up the Thames in the February of the preceding year. Having mustered in Chancery Lane, at the official residence of the Master of the Rolls, the actors and their friends delighted the town with a gallant spectacle. Mounted on richly-caparisoned and mettlesome horses they rode from Fleet Street, up the Strand, and by Charing Cross to Whitehall, through a tempest of enthusiasm. Every house was illuminated, every window was crowded with faces, on every roof men stood in rows, from every balcony bright eyes looked down upon the gay scene, and from basement to garret, from kennel to roof-top throughout the long way, deafening cheers testified, whilst they increased, the delight of the multitude. Such a pageant would even in these sober days rouse London from her cold propriety. Having thrown aside his academic robe, each masquer had donned a fantastic dress of silver cloth embroidered with gold lace, gold plate, and ostrich plumes. He wore across his breast a gold baldrick, round his neck a ruff of white feathers brightened with pearls and silver lace, and on his head a coronal of snowy plumes. Before each mounted masquer rode a torch-bearer, whose right hand waved a scourge of flame instead of a leathern thong. In a gorgeous chariot, preceded by a long train of heralds, were exhibited the Dramatis Personæ—Honor, Plutus, Eunomia, Phemeis, Capriccio—arrayed in their appointed costumes; and it was rumoured that the golden canopy of their coach had been bought for an enormous sum. Two other triumphal cars conveyed the twelve chief musicians of the kingdom, and these masters of melody were guarded by torch-bearers, marching two deep before and behind and on either side of the glittering carriages. Preceding the

musicians rode a troop of ludicrous objects, who roused the derision of the mob, and made fat burghers laugh till tears ran down their cheeks. They were the mock masque, each resembling an ape, each wearing a fantastic dress that heightened the hideous absurdity of his monkey's visage, each riding upon an ass, or small pony, and each of them throwing shells upon the crowd by way of a largess. In the front of the mock masque, forming the vanguard of the entire spectacle, rode fifty gentlemen of the Inns of Court, reining high-bred horses and followed by their running footmen, whose liveries added to the gorgeous magnificence of the display.

Beside the expenses which fell upon individuals taking part in the play, or procession, this entertainment cost the two inns 1086*l.* 8*s.* 11*d.* About the same time Gray's Inn, at the instigation of Attorney General Sir Francis Bacon, performed "The Masque of Flowers" before the lords and ladies of the court, in the Banqueting-house, Whitehall; and six years later Thomas Middleton's "Inner Temple Masque, or Masque of Heroes," was presented before a goodly company of grand ladies by the Inner Templars.

LIBRARY OF THE BOMBAY BRANCH OF THE ROYAL ASIATIC SOCIETY

CHAPTER LI.

ANTI-PRYNNE.

OF all the masques mentioned in the records of the Inns of Court, the most magnificent and costly was the famous Anti-Prynne demonstration, by which the lawyers endeavoured to show their contemptuous disapproval of a work that inveighed against the licentiousness of the stage, and preferred a charge of wanton levity against those who encouraged theatrical performances.

Whilst the "Histriomastix" rendered the author ridiculous to mere men of pleasure, it roused fierce animosities by the truth and fearless completeness of its assertions. Living in a time when men were wont to call a spade a spade in spoken controversy, Prynne astounded his readers by a frankness which was less universal with authors whom a rash sentence or a vigorous word might subject to prosecution in the Star-Chamber. For the most part his views were not original. In raising his voice against the vices of actors and the evil influence of unchaste dramas, he was but following in the steps of Stephen Gosson, and proclaiming opinions to which Anglican divines of the highest reputation had given utterance, to the cordial delight of London congregations. His doctrine was merely a repetition of sentiments which, in the previous century, had induced the English Parliament to legislate for players and vagabonds, as characters equally despicable and dangerous. The offence for which he lost his ears, underwent social degradation, and paid a fine of 5000*l.*, was the same good work for which Jeremy Collier was applauded by religious men in a subsequent generation, and is still estimated as one of the most useful writers of his time. Nominally punished for writing a book that was supposed to

contain libellous allusions to the queen, he was in fact punished for telling his generation certain wholesome but unpleasant truths.

To no order of society was the famous attack on the stage more offensive than to the lawyers; and of lawyers the members of Lincoln's Inn were the most vehement in their displeasure. The actors writhed under the attack; the lawyers were literally furious with rage—for whilst rating them soundly for their love of theatrical amusements, Prynne almost contrived to make it seem that his views were acceptable to the wisest and most reverend members of the legal profession. Himself a barrister of Lincoln's Inn, he with equal craft and audacity complimented the benchers of that society on the firmness with which they had forbidden professional actors to take part in the periodic revels of the inn, and on their inclination to govern the society in accordance with Puritanical principles. Addressing his "Much Honoured Friends, the Right Worshipfull Masters of the Bench of the Honourable Flourishing Law Society of Lincoln's Inne," the utter-barrister said, "For whereas other Innes of Court (I know not by what evil custom, and worse example) admit of common actors and enterludes upon their two grand festivalls, to recreate themselves withall, notwithstanding the statutes of our Kingdome (of which lawyers, of all others, should be most observant) have branded all professed stage-players for infamous rogues, and stage-playes for unlawful pastimes, especially on Lord's-dayes and other solemn holidayes, on which these grand dayes ever fall; yet such hath been your pious tender care, not only of this societie's honour, but also of the young student's good (for the advancing of whose piety and studies, you have of late erected a magnificent chappel, and since that a library) that as you have prohibited by late publicke orders, all disorderly Bacchanalian Grand-Christmasses (more fit for Pagans than Christians; for the deboisest roarers* than grave civill students, who should be

* That Prynne's description of the noise, riot, and profligacy of the revels was no imaginary picture, there is abundant evidence. Recalling the excesses of the Christmas Revel in the Middle Temple, 1620-1, Sir Simonds D'Ewes observes in his autobiography—"At the said Temple was a Lieutenant chosen; and much gaming and other excesses increased, during these festival dayes, by his residing and

patternes of sobriety unto others) together with all publicke dice-play in the Hall (a most pernicious, infamous game; condemned in all ages, all places, not onely by councels, fathers, divines, civilians, canonists, politicians, and other Christian writers; by divers Pagan authors of all sorts, and by Mahomet himselfe; but likewise by sundry Heathen, yea, Christian Magistrates' edicts)!"

Having thus patted the benchers on their backs, Prynne noticed with regret the rapid growth of dramatic literature, and the increase in the number of London theatres. He asserts, on the authority of stationers, that the two years

keeping a standing table there. When sometimes I turned in thither to behold their sports, and saw the many oaths, execrations, and quarrels that accompanied their dicing, I began seriously to loathe it, though at the time I conceived the sport of itself to be lawful." Not content with the excitement of gambling, drunkenness, immoral songs, and violent disputes, the revellers were wont to find diversion in ridiculing the usages of the Church, and turning to mockery the most solemn demonstrations of human affection. "The Middle Temple House," wrote Garrard to Thomas Earl of Strafford, Jan. 8, 1635, "have set up a prince who carries himself in great state, one Mr. Vivian, a Cornish gentleman, whose father, Sir Francis Vivian, was fined in the Star-Chamber about a castle he held in Cornwall about three years since. He hath all his great officers attending him—lord keeper, lord treasurer, eight white staves at the least, captain of his pensioners, captain of his guard, *two chaplains, who on Sunday last preached before him, and in the pulpit made three low legs to his excellency before they began, which is much laughed at.* My Lord Chamberlain lent him two fair cloths of state, one hung up in the hall, under which he dines, the other in his privy chamber; he is served on the knee, and all that come to see him kiss his hand on their knee. My lord of Salisbury hath sent him pole-axes for his pensioners. He sent to my lord of Holland, his justice in eyre, for venison, which he willingly sends to him; to the lord mayor and sheriffs of London for wine; all obey. Twelfth Day was a great day; going to the chapel, many petitions were delivered to him, which he gave to his masters of the requests. He hath a favourite, whom, with some others of great quality, he knighted on his return from church, and dined in great state. At the going out of the chambers into the garden, when he drank the king's health, the glass being at his mouth, he let it fall, which much defaced his purple satin suit, for so he was clothed that day, *having a cloke of the same down to his foot, for he mourns for his father who lately died.* It costs this prince 2000*l.* out of his own purse; I hear of no other design, but all this is done to make him fit to give the prince elector a royal entertainment, with masks, dancings, and some other exercises of wit in orations or arraignments that day that they invite him." The mirth of this fine English gentleman of the olden time, who could make merry about his father's death, and the fervour of the Puritan writer who inveighed against such Bacchanalian Grand Christmasses, may help to illustrate the great struggles of the period. As to the Revels, there is no room to question that their downright blackguardism rendered them intolerable to decency and good taste long before they were altogether put an end to.

preceding the completion of his book had seen the publication of forty thousand play-books, such works "being now more vendible than the choycest sermons."

Concerning the London theatres he observes that the "two old play-houses" (*i.e.*, the Fortune and the Red Bull), the "new theatre" (*i.e.*, Whitefriars play-house), and two other established theatres, being found inadequate to the wants of the play-going public, a sixth theatre had recently been opened. "The multitude of our London play-haunters being so augmented now, that all the ancient Divvel's Chappels (for so the fathers style all play-houses) being five in number, are not sufficient to containe their troops, whence we see a sixth new added to them, whereas even in vitious Nero his raigne there were but three standing theaters in Pagan Rome (though far more splendid than Christian London), and those three too many." Having thus enumerated some of the saddest features of his age, the author of the "Player's Scourge" again commends the piety and decorum of the Lincoln's Inn Benchers, saying, "So likewise in imitation of the ancient Lacedæmonians and Massilienses, or rather of the primitive zealous Christians, you have always from my first admission into your society, and long before, excluded all common players with their ungodly interludes, from all your solemn festivals."

If the benchers of one inn winced under Prynne's "expressions of approval," the students of all the Inns of Court were even more displeased with the author who, in a dedicatory letter "to the right Christian, Generous Young Gentlemen-Students of the four Innes of Court, and especially those of Lincolne's Inne," urged them to "at last falsifie that ignominious censure which some English writers in their printed works have passed upon Innes of Court Students, of whom they record:—That Innes of Court men were undone but for players, that they are their chiefest guests and imployment, and the sole business that makes them afternoon's men; that is one of the first things they learne as soon as they are admitted, to see stage-playes, and take smoke at a play-house, which they commonly make their studie; where they quickly learne to follow all fashions, to drinke all healths, to wear favours and good cloathes, to consort with ruffianly companions, to

swear the biggest oaths, to quarrel easily, fight desperately, quarrel inordinately, to spend their patrimony ere it fall, to use gracefully some gestures of apish compliment, to talk irreligiously, to dally with a mistresse, and hunt after harlots, to prove altogether lawless in steed of lawyers, and to forget that little learning, grace, and vertue which they had before; so much that they grow at last past hopes of ever doing good, either to the church, their country, their owne or others' souls."

The storm of indignation which followed the appearance of the "Histriomastix" was directed by the members of the Four Inns, who felt themselves bound by honour no less than by interest to disavow all connexion with, or leaning towards, the unpopular author. Until they had publicly and emphatically denounced his book as foolish, calumnious, and abominable, the gentlemen of the Honourable Societies deemed themselves to have lost caste in the world of fashion, and to have gained disfavour in the opinion of princes. They could not enter a theatre without exposing themselves to the taunts of players who attributed the act of an individual to the profession of which he was a member. At Whitehall it was whispered that disloyalty must be rife in the inns, when a lawyer dared to stigmatize as infamous the amusements in which the queen and the ladies of her court delighted. Of course Lincoln's Inn, even more than the other houses, was anxious to free herself from a suspicion of complicity with the writer who, besides being one of her members, had dared to insinuate that she cherished a faint sympathy for his views. Promptly she took measures to clear her honour, and to humiliate the offender.

On the suggestion of Lincoln's Inn, the four societies combined their forces, and at a cost of more than twenty thousand pounds, in addition to sums spent by individuals, entertained the Court with that splendid masque which Whitelock has described in his "Memoirs" with elaborate prolixity. The piece entitled "The Triumph of Peace," was written by Shirley, and it was produced with a pomp and lavish expenditure that were without precedent. The organization and guidance of the undertaking were entrusted to a committee of eight barristers,

two from each inn; and this select body comprised men who were alike remarkable for talents, accomplishments, and ambition, and some of whom were destined to play strangely diverse parts in the drama of their epoch. It comprised Edward Hyde, then in his twenty-sixth year; young Bulstrode Whitelock, who had not yet astonished the more decorous magnates of his county by wearing a falling band at the Oxford Quarter Sessions; Edward Herbert, the most unfortunate of Cavalier lawyers; John Selden, already a middle-aged man; John Finch, born in the same year as Selden, and already far advanced in his eager course to a not honourable notoriety. Attorney General Noy was also of the party, but his disastrous career was already near its close.

The committee of management had their quarters at Ely House, Holborn; and from that historic palace the masquers started for Whitehall on the eve of Candlemas Day, 1633-4. It was a superb procession. First marched twenty tall footmen, blazing in liveries of scarlet cloth trimmed with lace, each of them holding a bâton in his right hand, and in his left a flaring torch that covered his face with light, and made the steel and silver of his sword-scabbard shine brilliantly. A company of the marshal's men marched next with firm and even steps, clearing the way for their master. A burst of deafening applause came from the multitude as the marshal rode through the gateway of Ely House, and caracoled over the Holborn way on the finest charger that the king's stables could furnish. A perfect horseman and the handsomest man then in town, Mr. Darrel of Lincoln's Inn, had been elected to the office of marshal in deference to his wealth, his noble aspect, his fine nature, and his perfect mastery of all manly sports. On either side of Mr. Darrel's horse marched a lacquey bearing a flambeau, and the marshal's page was in attendance with his master's cloak. An interval of some twenty paces, and then came the marshal's body-guard, composed of one hundred mounted gentlemen of the Inns of Court—twenty-five from each house; showing in their faces the signs of gentle birth and honourable nurture; and with strong hands reining mettlesome chargers that had been furnished for their use by the greatest nobles of the land. This flood of flashing chivalry

was succeeded by an anti-masque of beggars and cripples, mounted on the lamest and most unsightly of rat-tailed screws and spavined ponies, and wearing dresses that threw derision on legal vestments and decorations. Another anti-masque satirized the wild projects of crazy speculators and inventors; and as it moved along the spectators laughed aloud at the "fish-call, or looking-glass for fishes in the sea, very useful for fishermen to call all kinds of fish to their nets," the newly-invented wind-mate for raising a breeze over becalmed seas, the "movable hydraulic" which should give sleep to patients suffering under fever.

Chariots and horsemen, torch-bearers and lacqueys, followed in order. "Then came the first chariot of the grand masquers, which was not so large as those that went before, but most curiously framed, carved, and painted with exquisite art, and purposely for this service and occasion. The form of it was after that of the Roman triumphant chariots. The seats in it were made of oval form in the back end of the chariot, so that there was no precedence in them, and the faces of all that sat in it might be seen together. The colours of the first chariot were silver and crimson, given by the lot to Gray's Inn: the chariot was drawn with four horses all abreast, and they were covered to their heels all over with cloth of tissue, of the colours of crimson and silver, huge plumes of white and red feathers on their heads; the coachman's cap and feather, his long coat, and his very whip and cushion of the same stuff and colour. In this chariot sat the four grand masquers of Gray's Inn, their habits, doublets, trunk-hose, and caps of most rich cloth of tissue, and wrought as thick with silver spangles as they could be placed; large white stockings up to their trunk-hose, and rich sprigs in their caps, themselves proper and beautiful young gentlemen. On each side of the chariot were four footmen in liveries of the colour of the chariot, carrying huge flamboys in their hands, which, with the torches, gave such a lustre to the paintings, spangles, and habits that hardly anything could be invented to appear more glorious."

Six musicians followed the state-chariot of Gray's Inn, playing as they went; and then came the triumphal cars of the

Middle Templars, the Inner Templars, and the Lincoln's Inn men—each car being drawn by four horses, and attended by torch-bearers, flambeau-bearers, and musicians. In shape these four cars were alike, but they differed in the colour of their fittings. Whilst Gray's Inn used scarlet and silver, the Middle Templars chose blue and silver decorations, and each of the other two houses adopted a distinctive colour for the housings of their horses and the liveries of their servants. It is noteworthy that the inns (equal as to considerations of dignity) took their places in the pageant by lot; and that the four grand masquers of each inn were seated in their chariot on seats so constructed that none of the four took precedence of the others. The inns, in days when questions of precedence received much attention, were very particular in asserting their equality, whenever two or more of them acted in co-operation. To mark this equality, the masque written by Beaumont and Fletcher in 1612 was described "The Masque of the Inner Temple and Grayes Inn; Grayes Inn and the Inner Temple;" and the dedication of the piece to Francis Bacon, reversing this transposition, mentions "the allied houses of Grayes Inn and the Inner Temple, and the Inner Temple and Grayes Inn," these changes being made to point the equal rank of the two fraternities.

Through the illuminated streets this pageant marched to the sound of trumpets and drums, cymbals and fifes, amidst the deafening acclamations of the delighted town; and when the lawyers reached Whitehall, the king and queen were so delighted with the spectacle, that the procession was ordered to make the circuit of the tilt-yard for the gratification of their Majesties, who would fain see the sight once again from the windows of their palace.

Is there need to speak of the manner in which the masque was acted, of the music and dances, of the properties and scenes, of the stately banquet after the play and the grand ball that began at a still later hour, of the king's urbanity and the graciousness of Henrietta, who "did the honour to some of the masquers to dance with them herself, and to judge them as good dancers as she ever saw?" Is there need to darken this bright story with an account of the altercation between the

Lord Chamberlain and Mr. May of Gray's Inn,* or with compassionate allusion to the learned and upright Prynne, who, whilst all this gaiety was going forward, was salving the stumps of his ears which had been cropped by the executioner's knife?

Notwithstanding a few untoward broils and accidents, the entertainment passed off so satisfactorily that "The Triumph of Peace" was acted for a second time in the presence of the king and queen, in the Merchant Taylors' Hall, when the magnates of the City joined with the leaders of court fashion in exulting over the degradation of "that vile calumniator, William Prynne." Other diversions of the same kind followed with scarcely less *éclat*. At Whitehall the king himself and some of the choicest nobles of the land turned actors, and performed a grand masque, on which occasion the Templars were present as spectators in seats of honour; and the queen, who with her ladies acted before the Whitehall circle in Davenant's "Temple of Love," and other sentimental interludes, encouraged her young companions of both sexes to seek their pleasure in amateur theatricals.

During the Shrovetide rejoicings of 1635, Henrietta even condescended to witness the performance of Davenant's

* In a description of this masque, Garrard wrote to Lord Strafford—"In their company there was one Mr. Read, of Gray's Inn, whom all the women, and some men, cry'd up for as handsome a man as the Duke of Buckingham. They were all well used at court by the king and queen, and no disgust given them. Only this one accident fell. Mr. May, of Gray's Inn, a fine poet, he who translated Lucan, came athwart my Lord Chamberlain in the Banqueting House, and he broke his staff over his shoulders, not knowing who he was. The king was present, who knew him, for he calls him his poet, and told the chamberlain of it, who sent for him next morning, and fairly excused himself to him, and gave him fifty pounds in pieces. I believe he was the more indulgent, for his name sake." Giving an even more displeasing illustration of court life in the seventeenth century, Mr. Pearce, in his excellent "History of the Inns of Court and Chancery," observes:—"An untoward event at court, that threatened more serious consequences, which occurred in the preceding reign, is thus related by Tindal:—'In 1612, 10 James I., Mr. Edward Hawley, of Gray's Inn, coming to court one day, Maxwell (a Scotsman) led him out of a room by a black string which he wore in his ear, a fashion then much in use; but this had like to have cost warm blood. Not only Gray's Inn Society, but all the gentry in London, thought themselves concerned in the affront; and Hawley threatened to kill Maxwell whenever he met him, if he refused to fight, which so frightened the king that he sent for the benchers and made up the quarrel.'"

"Triumphs of the Prince d'Amour," in the hall of the Middle Temple. Laying aside the garb of royalty, she went to the Temple, attended by a party of lords and ladies, and fine gentlemen who, like herself, assumed for the evening dresses suitable to persons of private station. The Marquis of Hamilton, the Countess of Denbigh, the Countess of Holland, and Lady Elizabeth Fielding were her companions; whilst the official attendants on her person were the Earl of Holland, Lord Goring, Mr. Percy, and Mr. Jermyn. Led to her place by "Mrs. Basse, the law-woman," Henrietta took a seat upon a scaffold fixed along the northern side of the hall, and amidst a crush of benchers' wives and daughters saw the play and heartily enjoyed it. "The masque," writes Sir H. Herbert, "was very well performed in the dances, scenes, clothing, and music, and the queen was pleased to tell me on her going away, that she liked it very well. Henry Lawes and William Lawes made the music; Mr. Corseilles made the scenes."

Says Whitelock, at the conclusion of his account of the grand masque given by the four inns, "Thus these dreams past, and these pomps vanished." Yes, and they were succeeded by stern realities—followed in due course by other dreams equally brief, by other pomps not more enduring. Scarcely had the frolic terminated when death laid a chill hand on the time-serving Noy, who in the consequences of his dishonest counsels left a cruel legacy to the master and the country whom he alike betrayed. A few more years—and John Finch, having lost the Great Seal, was an exile in a foreign land, destined to die in penury, without again setting foot on his native soil. The graceful Herbert, whose smooth cheek had flushed with joy at Henrietta's musical courtesies, became for a brief day the mock Lord Keeper of Charles II.'s mock court at Paris, and then, dishonoured and disowned by his capricious master, he languished in poverty and disease, until he found an obscure grave in the French capital. More fortunate than his early rival, Edward Hyde outlived Charles Stuart's days of adverse fortune, and rose to a grievous greatness; but like that early rival, he, too, died an exile in France. Perhaps of all the managers of the grand masque the scholarly pedant, John Selden, had the greatest share of earthly

satisfaction. Not the least lucky of the party was the historian of "the pomp and glory, if not vanity of the show," who having survived the Commonwealth and witnessed the Restoration, was permitted to retain his paternal estate, and in his last days could tell his numerous descendants how his old chum, Edward Hyde, had risen, fallen, and—passed to another world.

CHAPTER LII.

AN EMPTY GRATE.

WITH the revival of gaiety which attended and followed the Restoration, revels and masques came once more into vogue at the Inns of Court, where, throughout the Commonwealth, plays had been prohibited, and festivals had been either abolished or deprived of their ancient hilarity. The caterers of amusement for the new king were not slow to suggest that he should honour the lawyers with a visit; and in accordance with their counsel, His Majesty took water on August 15, 1661, and went in the royal barge from Whitehall to the Temple to dine at the Reader's feast.

Heneage Finch had been chosen Autumn Reader of that inn, and in accordance with ancient usage he demonstrated his ability to instruct young gentlemen in the principles of English law, by giving a series of costly banquets. From the days of the Tudors to the rise of Oliver Cromwell, the Reader's feasts had been amongst the most sumptuous and ostentatious entertainments of the town—the Serjeant's feasts scarcely surpassing them in splendour, the inaugural dinners of lord mayors often lagging behind them in expense. But Heneage Finch's lavish hospitality outstripped the doings of all previous readers. His revel was protracted throughout six days, and on each of these days he received at his table the representative members of some high social order or learned body. Beginning with a dinner to the nobility and Privy Councillors, he finished with a banquet to the king; and on the intervening days he entertained the civic authorities, the College of Physicians, the civil lawyers, and the dignitaries of the Church.

The king's visit was attended with imposing ceremony, and wanted no circumstance that could have rendered the occasion

more honourable to the host or to the society of which he was a member. All the highest officers of the court accompanied the monarch, and when he stepped from his barge at the Temple Stairs, he spoke with jovial urbanity to his entertainer and the Lord Chief Justice of the Common Pleas, who received him with tokens of loyal deference and attachment. "On each side," says Dugdale, "as His Majesty passed, stood the reader's servants in scarlet cloaks and white tabba doublets; there being a way made through the wall into the Temple Gardens; and above them on each side the benchers, barristers, and other gentlemen of the society, all in their gowns and formalities, the loud music playing from the time of his landing till he entered the hall; where he was received with xx violins, which continued as long as his majesty stayed." Fifty chosen gentlemen of the inn, wearing their academic gowns, placed dinner on the table, and waited upon the feasters—no other servants being permitted to enter the hall during the progress of the banquet. On the dais at the top of the hall, under a canopy of state, the king and his brother James sat apart from men of lower degree, whilst the nobles of Whitehall occupied one long table, under the presidency of the Lord Chancellor, and the chief personages of the inn dined at a corresponding long table, having the reader for their chairman.

In the following January, Charles II. and the Duke of York honoured Lincoln's Inn with a visit, whilst the mock Prince de la Grange held his court within the walls of that society. This visit was made on the 3rd* day of the month;

* Mr. Pearce, usually a most accurate, and always a very entertaining author, errs in giving the *first* day of the month as the date of the visit. He was misled by the following entry in John Evelyn's Diary:—"1661-2, 1st January. I went to London, invited to the solemn foolerie of the Prince de la Grange, at Lincoln's Inn, where came the King, Duke, &c. It began with a grand masque and a formal pleading before the mock Princes, Grandees, Nobles, and Knights of the Inn. He had his Lord Chancellor, Chamberlain, Treasurer, and other Royal Officers, gloriously clad and attended. It ended in a magnificent banquet. One Mr. Lort was the young spark who maintained the pageantry." The next entry in the diary bears date January 6th; and the previous entry is dated December 23. To the memorandum concerning Mr. Lort's brave doings in Lincoln's Inn, Evelyn fixed the date of the day on which he returned to town after spending the Christmas in the country. It is needless to say that the revels lasted several days—at the least from Christmas

and Samuel Pepys was bargaining for some pictures with Faithorne the engraver, when from the artist's window he saw the Life Guards ride past, escorting their highnesses to the revels.

Nine years later—in the February of 1671—King Charles and his brother James again visited Lincoln's Inn, on which occasion they were entertained by Sir Francis Goodericke, Knt., the reader of the inn, who seems almost to have gone beyond

Eve to Twelfth Night, inclusive; but the diarist gives a summary of the entire proceedings under the heading of one day. In like manner, referring to events that happened twenty years before, in the time of Charles I., John Evelyn says, under date Dec. 15, 1641:—"I was elected one of the Comptrollers of the Middle Temple revellers, as the fashion of the young students and gentlemen was, the Christmas being kept this year with great solemnity; but being desirous to pass it in the country, I got leave to resign my staff of office, and went with my brother Richard to Wotton." The next entry in the diary being—"Jan. 10, 1642. I gave a visit to my cousin Hatton, of Ditton." Thus, the diarist was elected a Comptroller, accepted the office, resigned his staff, and went with his brother to the country—events which of course did not happen on the same day, though they are grouped under one date. The youthful reader of Evelyn will be spared much trouble and saved from many slips by bearing in mind that the diary abounds with entries containing notices of events posterior to the dates affixed to the passages, and that it is throughout a compilation of memoranda making no pretension to exactness with regard to questions of time. Evelyn composed his diary in his later years from memoranda made with no great care at earlier periods; and whilst he summarized past events, he did not fear to fill out his meagre notes from the stores of a treacherous memory. Strictly the work is not a diary—*i.e.*, a journal of events filled in day by day—but an Old Man's Autobiography, composed in the form of a diary. Instead of making any disguise about the matter, Evelyn is quite frank as to the nature of his operations; and by his use of the historic form, by the whole scheme, and by many details of his work, he informs us that he is writing from memory, and is not in the strict sense of the term keeping a journal. At the outset, having told that he was born on October 31, 1620, and having given a few particulars concerning his father, mother, birth-place, and infancy, he makes the following entry:—"1623. 'The very first thing that I can call to memory, and from which time forward I began to observe, was this year (1623), my youngest brother being in his nurse's arms, who, being then two years and nine months younger than myself, was the last child of my dear parents." This is the style of an autobiographer, not of a diarist. A very different writer was Samuel Pepys. The young, keen, loquacious, pushing government clerk wrote his diary whilst he lived through the events which it notices. "Old Pepys," as he is now called, was "Young Pepys" throughout the time covered by his "Diary," in which he noted occurrences, day by day, as they occurred. With regard to the Prince de la Grange's revel he observes:—"Jan. 3, 1661-2. To Faithorne's, and there bought some pictures of him; and while I was there, comes by the king's life-guard, he being gone to Lincoln's Inne this afternoon to see the Revells there; there being, according to an old custome, a prince and all his nobles, and other matters of sport and change." As his eye runs over this passage, the reader can hear the clatter and hubbub of Charles II.'s Strand.

Heneage Finch in sumptuous profusion of hospitality. Of this royal visit a particular account is to be seen in the Admittance Book of the Honourable Society, from which it appears that the royal brothers were attended by the Dukes of Monmouth and Richmond; the Earls of Manchester, Bath, and Anglesea; Viscount Halifax, the Bishop of Ely, Lord Newport, Lord Henry Howard, and "divers others of great qualitie." On entering the garden of the inn, by the gates which opened into Chancery Lane near Holborn, the king was received by Sir Francis Goodericke and the other benchers, who "attended his majestie up to the tarras walke, next the field, and soe through the garden; the trumpetts and kettle drums, from the leades over the highest bay window, in the middle of the garden building, sounding all the while."

The entertainment in most respects was a repetition of Sir Heneage Finch's feast—the king, the Duke of York, and Prince Rupert dining on the dais at the top of the hall, whilst the persons of inferior though high quality were regaled at two long tables, set down the hall; and the gentlemen of the inn condescending to act as menial servants. The reader himself, dropping on his knee when he performed the servile office, proffered the towel with which the king prepared himself for the repast; and barristers of ancient lineage and professional eminence contended for the honour of serving His Majesty with sirloin and cheesecake upon the knee, and hastened with the alacrity of well-trained lacqueys to do the bidding of "the lords att their table." Having eaten and drunk to his lively satisfaction, Charles called for the Admittance Book of the Inn, and placed his name on the roll of members, thereby conferring on the society an honour for which no previous king of England had furnished a precedent. Following their chief's example, the Duke of York and Prince Rupert and the other nobles forthwith joined the fraternity of lawyers; and hastily donning students' gowns, they mingled with the troop of gowned servitors, and humbly waited on their liege lord.*

* The feasting on this occasion was not confined to the hall. Whilst the king ate his three courses and elaborate dessert on the dais of the refectory, the gentlemen of the horse-guards dined off venison and claret in the old council-chamber, the yeomen

In like manner, twenty-one years since (July 29, 1845), when Queen Victoria and her lamented consort visited Lincoln's Inn, on the opening of the new hall, they condescended to enter their names in the Admission Book of the Inn, thereby making themselves students of the society. Her Majesty has not been called to the bar; but Prince Albert in due course became a barrister and bencher. Repeating the action of Charles II.'s courtiers, the great Duke of Wellington and the bevy of great nobles present at the celebration became fellow-students with the queen; and on leaving the table* the prince walked down the hall, wearing a student's stuff gown (by no means the most picturesque of academic robes) over his field-marshal's uniform. Her Majesty forbore to disarrange her toilet—which consisted of a blue bonnet with blue feathers, a dress of Limerick lace, and a scarlet shawl, with a deep gold edging—by putting her arms through the sleeveless arm-holes of a bombazine frock.

Grateful to the lawyers for the cordiality with which they welcomed him to the country, William III. accepted an invitation to the Middle Temple, and was entertained by that society with a banquet and a masque, of which notice has been taken in another chapter of this work; and in 1697-8 Peter the Great was a guest at the Christmas revels of the Templars. On that occasion the czar enjoyed a favourable opportunity for gratifying his love of strong drink, and for witnessing the ease with which our ancestors drank wine by the magnum and punch by the gallon, when they were bent on enjoyment.

In the greater refinement and increasing delicacy of the eighteenth century, the Inns of Court revels, which had for so many generations been conspicuous amongst the gaieties of the town, became less and less magnificent; and they altogether died out under the second of those Georges who are thought by some persons to have corrupted public morals and lowered

of the guard enjoyed costly cheer in Mr. Day's chamber, and the coachmen and lacqueys of the noble visitors gorged themselves with steaks, washed down by fat ale, in the gardener's house.

* The banquet lasted about half-an-hour. How long the merry monarch and his friends sate at table is unknown; but their carousal, it is clear, was not an affair of just thirty minutes.

the tastes of society. To fight this baseless theory in the present page is no part of this writer's purpose; but in the list of the many facts which are opposed to it readers will do well to place the decadence and disappearance of those coarse orgies in which the grave lawyers of past times indulged, and the most cultivated classes of the nation delighted. In 1733-4, when Lord Chancellor Talbot's elevation to the woolsack was celebrated by a revel in the Inner Temple Hall, the dulness and disorder of the celebration convinced the lawyers that they had not acted wisely in attempting to revive usages that had fallen into desuetude because they were inconvenient to new arrangements or repugnant to modern taste. No attempt was made to prolong the festivity over a succession of days. It was a revel of one day; and no one wished to add another to the period of riot. At two o'clock on Feb. 2, 1733-4, the new Chancellor, the master of the revels, the benchers of the inns, and the guests (who were for the most part lawyers) sate down to dinner in the hall. The barristers and students had their ordinary fare, with the addition of a flask of claret to each mess; but a superior repast was served at the High Table, where fourteen students (of whom the Chancellor's eldest son was one) served as waiters. Whilst the banquet was in progress, musicians stationed in the gallery at the upper end of the hall filled the room with deafening noise, and ladies looked down upon the feasters from a large gallery which had been fitted up for their reception over the screen. After dinner, as soon as the hall could be cleared of dishes and decanters, the company were entertained with "Love for Love," and "The Devil to Pay," performed by professional actors who "all came from the Haymarket in chairs, ready dressed, and (as it was said) refused any gratuity for their trouble, looking upon the honour of distinguishing themselves on this occasion as sufficient." The players having withdrawn, the judges, serjeants, benchers, and other dignitaries danced "round about the coal fire;" that is to say, they danced round about a stove in which there was not a single spark of fire. The congregation of many hundreds of persons in a hall which had not comfortable room for half the number, rendered the air so oppressively hot that the master of the revels wisely resolved to lead his

troop of revellers round an empty grate. The chronicler of this ridiculous mummery observes: "And all the time of the dance the ancient song, accompanied by music, was sung by one Toby Aston, dressed in a bar-gown, whose father had formerly been Master of the Plea Office in the King's Bench. When this was over, the ladies came down from the gallery, went into the parliament chamber, and stayed about a quarter of an hour, while the hall was being put in order. They then went into the hall and danced a few minuets. Country dances began at ten, and at twelve a very fine cold collation was provided for the whole company, from which they returned to dancing, which they continued as long as they pleased, and the whole day's entertainment was generally thought to be very genteelly and liberally conducted. The Prince of Wales honoured the performance with his company part of the time; he came in to the music *incog.* about the middle of the play, and went away as soon as the farce of 'walking round the coal fire' was over."

With this notable dance of lawyers round an empty grate, the old revels disappeared. In their Grand Days, equivalent to the gaudy days, or feast days, or audit days of the colleges at Oxford and Cambridge, the Inns of Court still retain the last vestiges of their ancient jollifications, but the uproarious riot of the obsolete festivities is but faintly echoed by the songs and laughter of the junior barristers and students who in these degenerate times gladden their hearts and loosen their tongues with an extra glass of wine after grand dinners, and then hasten back to chambers for tobacco and tea.

On the discontinuance of the revels the Inns of Court lost their chief attractions for the courtly pleasure-seekers of the town, and many a day passed before another royal visit was paid to any one of the societies. In 1734 George III.'s father stood amongst the musicians in the Inner Temple Hall; and after the lapse of one century and eleven years the present queen accepted the hospitality of Lincoln's Inn. No record exists of a royal visit made to an Inn of Court between those events. Only the other day, however, the Prince of Wales went eastwards and partook of a banquet in the hall of Middle Temple, of which society he is a barrister and a bencher.

CHAPTER LIII.

LITIGANT *versus* CAMPHOR.

THE traditional propensity of lawyers for the stage, of which so many illustrations have been given, lingered among barristers on circuit to a comparatively recent date. Old stagers of "the Home" and "the Western" remember how the juniors of their briefless and *bagless* days used to astonish the natives of Guildford and Exeter with Shakesperian performances that would have made Edmund Kean bite his lips with indignation, and have sent Mrs. Siddons into inextinguishable laughter. The "Northern Circuit" also was at one time famous for the histrionic ability of its bar, but towards the close of the last century the dramatic recreations of its junior members were discountenanced by the Grand Court.

Of that court, established for the maintenance of professional dignity and etiquette, Lord Eldon was for some time Attorney General; and one of his last acts in fulfilling the duties of that office was to prosecute before "our Lord the Junior" one Mr. Taylor of the Circuit, who, to the scandal of his brethren of the long robe, and to the diminution of that esteem in which the British bar was held and ought to be held by the public, had acted the part of Counsellor Traverse in the "Clandestine Marriage," on the stage of the York Theatre. The record of this memorable trial, preserved in the archives of the Northern Circuit, runs thus:—"York Grand Night, Sat., Mar. 16, 1782. Mr. Atty. Gen. Scott mentioned that he had no sooner arriv'd in York than a playbill was put into his hands, in which, to his great astonishment, he found the respectable names of many of his brethren on the circuit. The play of the 'Clandestine Marriage' was to be performed for the benefit of Mr. Back. Mr. Smith was to lay aside the peaceful gown and array him-

self in a military habit; and a very distinguishable and conspicuous part was to be performed by Mr. Taylor, who appear'd in his proper character, not as the two former gentlemen, in such a masquerade dress that Mr. Atty. Gen. cou'd not produce any witness who cou'd take upon him to swear to the identity of their persons, but Mr. Law being called upon, depos'd that he saw Mr. Taylor appear on the stage in his bar wig acting the part of Counsellor Traverse, in the 'Clandestine Marriage,' and though Mr. Taylor acted the counsellor then, as he always does, in an inimitable manner, yet the Court was of opinion that by appearing upon the stage in that habit, he rather lessen'd the dignity of the wig, and therefore fined him 1 bottle—pd."

As our Lord the Junior regarded so gravely the offence of Mr. Taylor, what would he have said had he been many years later required to sit in judgment on Charles Mathews, the famous comedian, who brought the bar into contempt and the Chief Justice of England into derision by his exquisite mimicry of Lord Ellenborough's judicial voice and manner? In personating Counsellor Flexible, in the farce entitled "Love, Law, and Physic," the actor greatly delighted his house by imitations of Erskine and Garrow, and drew a tempest of applause by his account of the judge's summing up in the case of *Litigant* v. *Camphor*. "When he came," says Mrs. Mathews, in her biography of the actor, "to the judge's summing up, the effect was quite astounding to him, for he had no idea of its being so received. The shout of recognition and enjoyment indeed was so alarming to his nerves, so unlike all former receptions of such efforts, that he repented the attempt in proportion as it was well taken, and a call for it a second time fairly upset him, albeit not unused to loud applause and approbation." The next morning every paper informed Lord Ellenborough how he had been made the laugh of a densely crowded theatre, and filled him with reasonable fear that for many a term he would not be able to raise his voice in his own court without throwing counsel and clients, solicitors and suitors, into convulsions of merriment. Enraged by the indignity, he wrote for protection to the Lord Chamberlain, who, with equal prudence and tact, soothed the anger in the judicial breast, and

obtained from the actor a ready promise not to renew his misconduct. "Love, Law, and Physic" was not withdrawn; but Counsellor Flexible never again entertained the public with "the judge's charge," although it was vociferously demanded at each succeeding presentation of the farce. To a select party at Carlton House the comedian, however, was induced to repeat the imitation, on which occasion the Prince Regent and his brother of York were infinitely amused. "The prince was in raptures," the wifely biographer assures her readers, "and declared himself astonished at the closeness of the imitation, shutting his eyes while he listened to it with excessive enjoyment, and many exclamations of wonder and delight, such as 'Excellent!' 'Perfect!' 'It is himself!' The Duke of York manifested his approval by peals of laughter."

PART X.—POLITICAL LAWYERS.

CHAPTER LIV.

LAWYERS IN THE HOUSE.

IN England the ordinary career of a decidedly successful and eminent barrister opens with a period spent in the useful but inglorious labours of an over-worked junior; comprises a second term in which the more lucrative achievements of a popular leader are diversified by the triumphs of parliamentary warfare; and closes with promotion to the honours and emoluments of the bench. As a judge he has fresh prospects of fame and influence. By lucid judgments, accurate knowledge, and fearless impartiality, he may emulate the renown of Holt and Mansfield; if his seat be one of inferior grade, he may aspire to the highest judicial office of the realm; and when he has ceased to explain the law in Westminster Hall, or has descended from the woolsack, he may still, like Lyndhurst, influence the counsels of a great political party, or like Brougham may benefit his country by zealous attention to the appellate jurisdiction of the Lords, or like Westbury may aid in removing the abuses of our courts, and in reforming our laws.

After promotion their courses of action are various, but in their upward struggle rising barristers are almost unanimous in wishing to gain admittance to the House of Commons, in order that their services to a party may by that party be rewarded with judicial preferment. Many cases could be cited where lawyers have, like Lord Langdale, raised themselves to the bench and the peerage without undergoing the vexation and toil of parliamentary servitude. Alike to the honour of

the great Whig party, and the great Tory party, mention could be made of judges who have been indebted for their advancement to administrations whose politics they had both censured and strenuously opposed. Moreover, a strong list could be made out of such men as Sir C. Crompton, Sir J. Willes, Sir G. Bramwell, Sir H. Hill, and Sir C. Blackburn, Sir W. Channell, and Sir B. Byles, who in the present reign have been made judges without regard to the support they may have given, or have abstained from giving, to party, and whose appointments justify a hope that ere long, in bestowing vacant judgeships, ministers will invariably select the men who are best qualified as lawyers and as persons of character to maintain the reputation of the bench, whether they have or have not filled seats in the house—whether they be Conservative or Liberal.

But notwithstanding the influence of these recent promotions, lawyers still feel that they must win their judgeships in the political arena, or be content to remain to the last untitled working barristers; and amongst the consequences of this conviction may be observed the number of the legal candidates who, at every general election, seek admission to "the House," and the number of place-seeking barristers who in every parliament range themselves with the ministerialists or opposition. That all of them, for the sake of their legal attainments, are needed in the electoral chamber no one would seriously maintain; that as a class they are, and always have been, decidedly unpopular with their brother members, is a fact that will be questioned by no one familiar with the present state and past history of parliament. On this point Lord Campbell, in a note to his memoir of Lord Commissioner Whitelock, humorously observes: "Although on the rare occasions when it was my duty to speak while a member of the House of Commons I had the good fortune to experience a favourable hearing; I must observe that there has subsisted in this assembly down to our own times, an envious antipathy to lawyers, with a determined resolution to believe that no one can be eminent there who has succeeded at the bar. The prejudice on the subject is well illustrated by a case within my knowledge. A barrister of the Oxford circuit taking a large estate under the

will of a distant relation, left the bar, changed his name under a royal license, was returned for a Welsh county, and made his maiden speech in top-boots and leather breeches, holding a hunting-whip in his hand. He was most rapturously applauded till he unluckily alluded to some cause in which he had been engaged while at the bar; and when it was discovered that he was a lawyer in disguise, he was coughed down in three minutes. In the other House of Parliament there is no such prejudice against the law."

This feeling within the house is very ancient, and in all ages it has found countenance outside parliament, in the popular belief that lawyers are the knaves and prime promoters of mischief in the legislative assembly; and however unjust they may be to the many enlightened lawyers who, like Sir Samuel Romilly, should be named with the eminent benefactors of the human species, it must be confessed that the prejudice and the theory are to a great degree supported by a series of ugly facts. Lawyers, in their eagerness to please the dispensers of patronage, have with lamentable frequency prostituted their learning and eloquence, using for vile ends the powers which are to be feared rather than admired when no high principle controls them. To their ill repute, and almost irrecoverable loss of moral influence, they have at some of the most critical periods of our history figured as the pliant slaves of power; and when they have been signally conspicuous for immorality or folly, their crimes and blunders have been of kinds for which the multitude has no leniency. Their vices have been the vices that are most detestable, and their errors have been the errors that are most hurtful to the people at large. In some cases, therefore, when they have sinned far less, they have been punished far more than the delinquents of other professions.

Certainly lawyers have done their best to make themselves odious to all classes of their countrymen, and especially to the lowest class, from the time when Chief Justice Odo devastated wide districts with sword and brand. Under Normans, Plantagenets, and Tudors, the law was a vocation hateful to the vulgar, notwithstanding the splendour of its Chancellors and the sacred vocation of many of its greatest representatives.

Wat Tyler's memorable revolt was the consequence of Chancellor de Sudbury's injudicious counsels; and long after the actors in that rebellion had passed away, the recollection of that lawyer's unjust tax, and all its lamentable fruits, lingered in the minds of the poor, and gave them an argument against judges. Conspicuous amongst the crimes and misdemeanours of the lawyers of Sudbury's period is the daring fraud perpetrated by Lord Chancellor de Braybroke, who, having fabricated an act of parliament, used it for the persecution of divers godly persons. The story of Braybroke's "Sham Act" illustrates in an amusing manner the length to which official effrontery could go in times when public opinion can be scarcely said to have existed, and when the aristocracy possessed no convenient means for controlling the action of ministers. In the interest of the Church, of which he was a prelate, Robert de Braybroke proposed a measure that should authorize sheriffs, under the direction of Chancery, to arrest and imprison reputed heretics; but though it met the approval of the Lords, the scheme was rejected by the Commons. Even in the days of the Plantagenets any other Chancellor would have desisted for a time from his purpose, but De Braybroke was pleased to regard the action of the Commons as altogether immaterial, and caused his measure to be enrolled and promulgated as law. When parliament reassembled in the following year (6 Richard II.), the Commons, after warm but unanimous debate, passed an act declaring the Chancellor's bill an imposture; and to this declaration the peers accorded their assent. Whereupon, with that firmness which marked the official mind in the feudal ages, the Chancellor was pleased to rate the opinion of the lords at less value than the opposition of the lower house, and so contrived that his own spurious enactment remained in force to the great discomfort of honest folk whose conscientious scruples forbade them to worship images. "But," says Coke, in his Reports, "in the parliamentary proclamation of the acts passed anno 6 Richard II., the said act of 6 Richard II., whereby the said supposed act of 5 Richard II. was declared to be null, is omitted; and afterwards the said supposed act of 5 Richard II. was continually printed; and the said act of 6 Richard II.

hath, by the *craft of the prelates,* been ever from time to time kept from the print."

In the 46th year of Edward III., the lords by a singular and altogether unconstitutional ordinance showed that dislike of lawyers was by no means a sentiment peculiar to the inferior orders of society. Either through genuine sympathy with the vulgar prejudice, or because they had found lawyers an inconvenient and unmanageable element in the popular assembly, the peers ordained that lawyers should not be returned to sit in Parliament: and though the Commons had never assented to this absurd provision, it was relied upon as authoritative by the Cardinal Chancellor Beaufort, when, at the beginning of the next century, he inserted in the writs for a new Parliament a clause directing "that no apprentice, or other man of the law, should be elected." In compliance with the illegal writs of summons the electors of the country chose a House of Commons so entirely devoid of lawyers and so thoroughly innocent of law, that not a single member of the odious profession joined the assembly, and not a single good law resulted from its deliberations. Not less comical than alarming were the proceedings of this lawless Parliament, which the jesters of the time and the historians of subsequent ages termed the "parliamentum indoctum;" and which concluded its extravagances of folly by gravely proposing to the king that he should appropriate for his own uses the revenues of the Church. Addressing Henry IV., whose pecuniary wants they were required to satisfy, the loyal Commons observed, "That without burthening his people, he might supply his occasions by seizing on the revenues of the clergy; that the clergy possessed a third part of the riches of the realm, which evidently made them negligent in their duty; and that the lessening of their excessive incomes would be a double advantage both to the Church and the State." From his tonsure to the soles of his feet Cardinal Beaufort shuddered with surprise and consternation when he heard this astonishing suggestion from a House of Commons which he had hoped would prove alike remarkable for devotion to the king and submissiveness to the Church, since it contained no loquacious, law-quoting practitioners of chicanery. Too late he discovered that a mob of illiterate squires and tradesmen might be more

contumacious and ungovernable, and no less arrogant and captious, than an assembly of which a few members were tinctured with juridical learning. Archbishop Arundel's pathetic eloquence silenced the innovators for a time; but they did not relinquish their hope that sooner or later the estates of the Church would be distributed amongst the king, nobles, knights, and esquires of the country—a certain portion of the spoil being retained for the support of a hundred hospitals, and the maintenance of an army of parish priests, paid in yearly salaries of seven marks a-piece.

From an early date lawyers were employed by despotic kings as suitable instruments for making their wishes known to Parliament, and for overcoming parliamentary opposition to unacceptable measures; and in this use of legal advocates kings seem to have been guided less by regard for their eloquence than by need of their special information. At times when the bar was notable for its lack of effective eloquence, the lawyer was found wheedling the Commons into acquiescence with royal arrangements; and long before any barrister made a brilliant reputation as a parliamentary orator, professional lawyers were employed as spokesmen for the king in English Parliaments. The reasons for this arrangement are apparent. Much as every simple man distrusted lawyers, he was greatly influenced by their words when they spoke to him authoritatively on matters pertaining to the constitution; and kings bent on winning parliamentary sanction for questionable proceedings knew that lawyers were peculiarly qualified to strain, without actually breaking the law—in favour of royal prerogative.

Hence, at certain periods, lawyers are conspicuous in Parliament doing the dirty work of kings, and for their reward earning public odium as well as private advantage. At the Parliament convened at Lincoln in the first year of the fourteenth century, Roger Le Brabaçon, in behalf of his master, Edward I., made such unreasonable demands for money that the "nobility and Commons began to *murmur*;" but it is not recorded whether the discontent was expressed by groans, or shrieks, or exclamations of "Oh, oh!" or a concert of coughs, or such derisive cries as Irish members used to pour upon the ministry in the days of O'Connell—all which modes

of showing dissatisfaction are in parliamentary phraseology included in the word "murmuring." Three centuries later the practice of "coughing down" offensive speakers was the habitual resource of indignant members, but it is a matter of doubt when the custom first came into vogue, and no suggestions can be offered as to its origin.

One of the earliest cases of "coughing down" mentioned in the annals of our legislature occurred in 1601, when Serjeant Hele—famous in his own and not unknown to the present age as a legal sycophant—struck with the childishness and folly that sometimes defeat the counsels of dishonest men, exclaimed in the House of Commons, "Mr. Speaker, I marvel much that the house will stand upon granting of a subsidy when all we have is her majesty's, and she may lawfully, at her pleasure, take it from us: yea, she hath as much right to all our lands and goods as to any revenue of her crown." This view of the royal prerogative was not likely to please country gentlemen with good estates and burgesses possessed of lucrative businesses; and they forthwith "coughed down" the Serjeant, whose private morals and personal* tastes were not less odious than

* In an official memorial laying before Elizabeth the list of Hele's disqualifications for the Mastership of the Rolls, Lord Ellesmere observed of that worthy:—"1. He is charged to have been long a grypinge and excessive usurer. Against such persons the Chancerye doeth gyve remedye, which yt is not lykelye he will doe, beinge hym self so great & so common an offender in the same kynde. 2. He is charged to have bene long a most gredye and insatiable taker of fees, and (which is most odious) a notorious and common ambo-dexter, takinge fee on both sydes, to the great scandale of his place and profession. . . . . 4. He is noted to be a great drunkarde, and in his drunkennesse not onlye to have commonly used quarrelynge and brawlenge words, but sometyme blowes also; and that at a common ordynarye, a vice ille beseeminge a serjeant, but in a judge or publicke magistrate intollerable." In short, Serjeant Hele was a bully and irrecoverable blackguard. A dissolute haunter of taverns, he followed the still disreputable and at that time illegal vocation of a usurer; at Westminster he was known to have sold the interests of clients from whom he received payment beforehand for exertions and fidelity; and yet notwithstanding his abominable courses and evil repute, he enjoyed a considerable practice, was a member of parliament, could aspire to the Mastership of the Rolls, and in private had relations with the Lord Keeper who thus stigmatized him—as a rogue and a ruffian. To those who delight to extol the virtues of the Elizabethan era, especially to those who would fain believe that in these days the bar has lost somewhat of its ancient dignity and firmness of tone, Serjeant Hele's position amongst the lawyers of the sixteenth century is an awkward and unmanageable fact. Under Victoria Edwin James was ejected from his profession, as

his political turpitude. The story of Hele's discomfiture lived on the lips of his contemporaries; and receiving it from men who had themselves witnessed the Serjeant's humiliation, Sir Simonds D'Ewes preserved it in his memories of Elizabethan Parliaments. "All the House," says the narrative, "hemmed, and hawed, and talked. 'Well,' quoth Serjeant Hele, 'all your hemming shall not put me out of countenance.' So Mr. Speaker stood up and said, 'It is a great disorder that this should be used, for it is the ancient use of every man to be silent when any man speaketh; and he that is speaking should be suffered to deliver his mind without interruption.' So the Serjeant proceeded, and when he had spoken yet a little while, saying he could prove his former position by precedent in the times of Henry III., King John, and King Stephen, the house hemmed againe, and so he sate down." Some writers concerning the ancient usages of Parliament infer from the Speaker's words that this mode of interruption was a novelty at the time under consideration; but as he does not speak of it as a new kind of disorder and disrespect for ancient usage, such a construction cannot fairly be put on the chairman's expostulation.

Under the Tudors, lawyers, to their credit, were scarcely less conspicuous in opposition than amongst ministerial supporters. On his first appearance in the House of which he rose to be Speaker in the following reign, young Thomas More greatly incensed Henry VII. by defeating the application which that monarch made to the Commons for a subsidy on the marriage of his eldest daughter with the King of Scotland. "A beardless boy hath wrought all the mischief," said a courtier, reporting to the king the refusal of his demands; whereupon the sovereign, with characteristic injustice, clapped the beardless boy's father in the Tower, and deprived him of liberty until he had paid a hundred pounds to the royal treasury. For a time the young politician thought his neck in danger, but he preserved it—for the axe of Henry VII.'s son.

soon as he was known to have sold a client. In the days of Elizabeth, Hele, the notorious ambidexter, was allowed to remain in the highest rank of counsel, and sit in parliament. The low morality of lawyers in the days of Elizabeth and her father is demonstrated by the careers of such men as Rich and Hele.

Sir Edward Montagu, Chief Justice of the King's Bench and ancestor of the Dukes of Manchester, made a similar entrance into public life. Elected at an early age to serve as a member of the Commons, the young Templar joined the Parliament in 1523, and made a violent harangue against the proposal for a grant of money on which King Henry and Wolsey had set their hearts. Henry's mode of intimidating the boy-patriot was characteristic of the man and the age. Having summoned the young member to his presence, he laid his hand upon his head, and with significant accent, observed, "Get my bill to pass by twelve of the clock to-morrow, or else by two of the clock to-morrow this head of yours shall be off." At the present time when the Crown does not venture to influence the decisions of the Commons by means more perilous to the subject than an invitation to a state ball at Buckingham Palace, it is difficult to realize the effect of such a pat from a royal hand—of such an assurance from a monarch's lips.

At the close of the last century, the lawyers who distinguished themselves in defending the victims of ministerial persecution, and in opposing George III.'s system of domestic government, were ordinarily designated "sedition lawyers"—political enemies so styling them in malice, whilst their friends used the words jocosely. Erskine was at the head of these popular advocates; and amongst the few young men bold enough to seek fortune in the same troublous course was John Gurney, who, forty years after his call, rose to be a Baron of the Exchequer. In the trials of Hardy, Horne Tooke, Thelwall, Crossfield, John Binns, and other persons accused of treasonable practices, young John Gurney was engaged for the defence—much to his own advantage, and to the gratification of his father, Joseph Gurney, the eminent short-hand writer. At this period the elder Gurney, in reply to a friend's congratulations, observed, "Yes, thank you; my boy is doing well. He has taken to the sedition line; and, please God, he'll make his fortune in it." In those days the sedition line was not without its dangers; but it had become a safer course for young lawyers than it was in the days of King Hal.

CHAPTER LV.

SONS OF ZERUIAH.

IN the sixteenth century, a slight knowledge of law went a long way, and clever courtiers could climb to high judicial places without the advantages of a systematic legal education. Thomas Cromwell, Wolsey's pupil in state-craft, amongst his numerous offices held the post of Chief Justice in Eyre beyond Trent; but though he achieved this professional eminence and in his upward course was much assisted by reputation for familiarity with the law, the highest school in which he is said to have studied the statutes and usages of the realm was an attorney's office. So also Hatton rose to be Chancellor, though he had neither practised law, nor taken holy orders.

Indeed throughout the earlier dynasties of English history, a large proportion of conspicuous lawyers owed their elevation less to their legal attainments than to their mastery of those arts by which courtiers are wont to benefit themselves at the expense of the industrious classes. The morality of these dexterous politicians, whether they were ecclesiastics or laymen, is illustrated by countless sarcasms, many of which have passed from the popular tongue to the repertories of old proverbs. A pungent distich assigns the pliancy of the willow, in place of the firmness of the oak, to William Paulet, Marquess of Winchester, who having held office under Henry VII., and kept the seals under Protector Somerset, died in the ninety-seventh year of his age, whilst his feeble hand still rested on the Lord Treasurer's staff, which Queen Elizabeth's kindness permitted him to retain till his last breath. Richard Rich's open violations of truth suggested a happy thought to the wits who, on the lawyer's elevation to the peerage, maintained that he ought

to take his title from *Lighes** in Essex, where he possessed the rich lands of an abolished priory. Not without reference to the repeaters of this excellent witticism, some of whom represented Rich as having acted on the satirical suggestion, did the audacious Chancellor issue his famous proclamation, enjoining His Majesty's justices of the peace "to arrest all coiners and tellers abroad of vain and forged tales and lies, and to commit them to the galleys, there to row in chains during the king's pleasure." The dexterous equivocations by which Stephen Gardiner, Bishop of Winchester and Lord Chancellor to Queen Mary, habitually endeavoured to secure the advantages and escape the penalties of untruthfulness, gave rise to the remark, "My Lord of Winchester is like Hebrew, to be read backwards." Another churchman, who held the seals something more than seventy years later, and who, like most of his spiritual precursors in Chancery, greatly strengthened the vulgar belief in the dishonesty of lawyers, gave his employers a piece of knavish counsel that has passed into proverb. "Swim with the tide, and you cannot be drowned," was the advice which Dean Williams gave to the conspirators who made him Lord Keeper. To mention Nicholas Bacon amongst lawyers who have risen by artifice rather than law would be unjust, for he was an able judge and a virtuous citizen; but in this page it is worthy of observation that, in an age when honesty was fruitful of dangers, and craft was deemed necessary for the achievement of high ambitions in public life, Lord Bacon's father contrived to rise without falsehood and to retain his good fortune without dissimulation. The secret of this success appears to be that the honest man was not less moderate than veracious, and that caution saved him from the indiscretions which would have either wrought his downfall or necessitated evasion. His motto was "mediocria firma;" his favourite saying, "Let us stay a little, that we may have done the sooner." Less cautious, though not less honest, than his father, Francis Bacon raised himself to the woolsack by eloquence†

* Victorian wit fabricated a somewhat similar joke concerning a far more respectable public character, when on a rumour of Her Majesty's intention to raise her obstetric physician to the peerage, it was whispered in the London clubs that "Dr. Locock was about to become a peer with the title of—The Lord Deliver Us."

† Of that eloquence Raleigh observed, "Lord Salisbury was a great speaker

rather than by legal knowledge or by any of his higher but less showy powers; and the machinations of his enemies were so disastrously successful, that in spite of his moral excellence and priceless services, he has too generally been ranked with slippery talkers, whilst his misapprehended career has been used to illustrate the proverbial cleverness and knavery of his profession.

But while so much is said concerning the unscrupulous ambition of political lawyers, it may not be forgotten that to professional lawyers more than to men of any other class we are indebted for the preservation—ay, for the creation—of our constitutional liberties. Such lawyers as Coke and St. John, Bradshaw and Maynard, encouraged and instructed Englishmen to resist the encroachments of the Stuarts. Even John, Lord Colepepper, the cavalier Master of the Rolls, must be placed on the roll of those lawyers who fearlessly denounced the malpractices of Charles I.'s government. "One grievance more, which compriseth many," he exclaimed in the House of Commons at the opening of the Long Parliament; "it is a nest of wasps, or swarms of vermin, which have overcrept the land; I mean the monopolies and polers of the people. These, like the frogs of Egypt, have gotten possession of our dwellings, and we scarce have a room free from them. They sup in our cup. They dip in our dish. They sit by our fire. We find them in the dye-vat, wash-bowl, and powdering-tub. They share with the butler in his box. They have marked us and sealed us from head to foot. Mr. Speaker, they will not bate us a pin. We may not buy our own cloaths without their brokage. These are the leeches that have sucked the commonwealth so hard that it is almost become hectical." To such lawyers as Whitelock and Glyn the wisdom and success of Cromwell's vigorous rule may in some measure be attributed. And in the list of services rendered to the English legislature by "barristers in the House of Commons," notice should be taken of Sir Edward Coke's distinct and earnest advocacy of free-trade principles, more than a century before the birth of Adam Smith, and more than two hundred years before Richard Cobden first

but a bad writer, and my Lord Northampton was a great writer but a bad speaker, while Lord Bacon was equally excellent in speaking and writing."

raised his voice against the bread-tax. When it was said that "reasons of state" were opposed to a bill for allowing "the sale of Welsh cloths and cottons in and through the kingdom of England," Sir Edward replied, "Reasons of state is often used as a trick to put us out of the right way; for when a man can give no higher reason for a thing, then he flyeth to a higher strain, and saith *it is a reason of state.* Freedom of trade is the life of trade; and all monopolies and restrictions do overthrow trade." So also in language that might have come two centuries later from corn-law repealers, he spoke against a bill "to prohibit the importation of corn for the protection of tillage." Anticipating our most admired writers on political science, Sir Edward, as early as 1621, exclaimed, "If we bar the importation of corn when it aboundeth, we shall not have it imported when we lack it. I never yet heard that a bill was preferred in parliament against the importation of corn, and I love to follow ancient precedents. I think this bill truly speaks Dutch, and is for the benefit of the Low Countrymen." And yet so great are the difficulties in the way of those who would preserve society from error, or enlighten the ignorant, our grandfathers loudly extolled the wisdom of Lord Kenyon who had the presumption to sneer at Adam Smith's instructions, and at a time "when in an evil hour" (as his lordship expressed it) all the statutes against forestalling had been repealed, could venture to punish with heavy fines and imprisonment a merchant whose wrong-doing consisted in buying corn and selling it at an increased price on the same day. James I.'s Chief Justice proposed to anticipate the consequences of bad harvests at home by drawing to our shores a portion of the fruits of superabundant harvests in foreign lands; but George III.'s Chief Justice was so ignorant and unobservant that he sought to remedy a partial famine by impoverishing honest dealers in human food. "The law has not been disputed," he observed, in his judgment in the case of Mr. Rusby the corn merchant, who was found guilty of misdemeanour at common law, because wilfully, and with selfish design, he had sold at an advanced price certain quarters of oats which he had bought on the same day; "for though in an evil hour all the statutes which had been existing were at one blow repealed,

yet, thank God, the provisions of the common law were not destroyed. The common law, though not to be found in the written records of the nation, yet has been long well known. It is coeval with society itself, and was formed from time to time by the wisdom of mankind. Even amongst the laws of the Saxons are to be found many wise provisions against forestalling and offences of this kind; and those laws laid the foundation of our common law. Speculation has said that the fear of such an offence is ridiculous; and a very learned man—a good writer—has said, 'You may as well fear witchcraft.' I wish Dr. Adam Smith had lived to hear the evidence of to-day, and then he would have seen whether such an offence exists, and whether it is to be dreaded. If he had been told that cattle and corn were brought to market, and there bought by a man whose purse happened to be longer than his neighbour's, so that the poor man who walks the streets and earns his daily bread by his daily labour could get none but through his hands, and at the price which he chooses to demand; that it had been raised 3*d.*, 6*d.*, 9*d.*, 1*s.*, 2*s.* and more a quarter on the same day, would he have said there is no danger from such an offence?" Referring to the time when the Chief Justice of England punished Mr. Rusby with a heavy fine and a long term of imprisonment, Sydney Smith wrote, "This absurdity of attributing the high price of corn to the combination of farmers and middle-men was the common nonsense talked in the days of my youth. I remember when ten judges out of twelve laid down this doctrine in their charges to the various grand juries on their circuits."

Notwithstanding the greatness of the services rendered by legal gownsmen to the Long Parliament, both within the house and on hard-fought fields, professional lawyers were even less popular during the Commonwealth than they had been in former times. The axe had scarcely severed Charles's head from his body when the Rump began to grumble against the sons of Zeruiah.

CHAPTER LVI.

HONOURS GAINED AND HONOUR LOST.

WHILST the dignity and influence of their order have invariably suffered, individual lawyers have no less invariably reaped advantage from the temper and policy of those of our sovereigns who have signalized themselves by encroachments on the rights of the people, or by despotic intolerance. This remark is equally applicable to the crown lawyers who grew rich under the Stuarts, and to the crown lawyers who battened on ministerial prosecutions in the reign of George III. Upon the whole the popular despotism of Cromwell had a beneficial effect on the morality and social repute of barristers and judges; but there can be no doubt that the Protector's system did not favour the hopes of ambitious gownsmen. On the other hand, the unpopular tyrannies of the Jameses and the Charleses lowered the tone and status of the law, notwithstanding the profuseness with which honours and public money were squandered on a few obsequious judges and counsel. The inability of titles and pensions to win respect for an order which systematically provokes contempt, is well illustrated by the position of the bench and the bar throughout the seventeenth century. At first sight a superficial student might think that the Stuarts were good friends to the lawyers, and greatly raised the *prestige* of their profession; and unquestionably such a statement of the case would find an appearance of support from certain circumstances.

Under James I. the Attorney General won permission* to

* Francis Bacon was permitted to sit in the House of Commons, whilst he was Attorney General; but since 1614, the right of the Attorney to keep his seat has been questioned in debate. In 1620, 1625, and 1640 new writs were ordered because the office of Attorney General had been conferred on a member of the house. In

sit in parliament, from which he had hitherto been excluded on the ground that he was an assistant of the House of Peers. Under Charles II. lawyers gained such influence in the Commons that, of the seven speakers who presided in the lower house during his reign, six were of their order.* Had Elizabeth lived three lustres longer, Egerton would have gone to the grave like Puckering, Hatton, Bromley, and Nicholas Bacon, without the honours of the peerage; but James placed a coronet on his head, and by the subsequent elevation of Bacon to the hereditary nobility, contributed greatly to a custom which has been a chief source of honour to the law. Before the accession of James I., lay-keepers of the royal conscience had been created peers; and since the Revolution of 1688, a lawyer of decent fame, although of humble parts, has held the seals and missed his patent of nobility: but notwithstanding these earlier precedents and this later departure from the rule, the four Stuart kings may be said to have fixed the usage, in accordance with which the Lord Chancellors are now invariably made actual members of the chamber over which they preside by virtue of their office. The earlier half of the eighteenth century had indeed passed away before it was regarded as a matter of course that the Lord Chancellor should receive a peerage *upon* his appointment to the woolsack, but —Lord Keeper Sir Nathan Wright and certain lords commissioners excepted—no person entrusted with the seals since the deposition of James II. has failed to obtain a patent of nobility. Nor were the Stuarts content with raising holders of the Great Seal to the peerage. James I. made Sir Henry

1674 Francis North's right to continue in his seat for King's Lynn was made a subject of irregular discussion. Roger says, "The same good friends began to discourse of his incapacity of sitting as a member of that house, there being an order, as they said, against it, whereof the reason was that the Attorney is of course an assistant of the House of Peers." The discourses, however, did not take the form of a debate followed by a division; and since 1674 no attempt seems to have been made within the house to exclude the Attorney General.

* The exception was Sir Edward Seymour. Mr. Foss observes with regard to the legal speakers: "When elected to that honourable office they desisted from practising; and so jealous was the house of their privileges, that on Sir Edward Turnour asking their opinion, in 1668, whether, the adjournment being a long one, he ought to be attended by the mace and forbear to practise, it was declared that the practice must be the same as in shorter adjournments."—Foss's *Judges of England.*

Montagu a baron and viscount, and Charles I. placed the ex-Chief Justice of England in the brotherhood of earls. So also, on retiring from the bench, Chief Justice Ley was created Baron Ley by James I.—a rank and title which he exchanged in the following reign for Earl of Marlborough. It may of course be urged that these honours were conferred on them as political partisans, and not as judges who had faithfully discharged the arduous duties of the Chief Justice's office. Still they were lawyers who had risen by their profession, and if they were not rewarded for having been Chief Justices, it is certain that their conduct in the King's Bench had rendered them acceptable to the Crown, and gained them distinctions that would never have marked them had they not worn the ermine. Moreover, their successive elevations were regarded by lawyers as additions to the glory of their profession, and as proofs of the honour in which the law was held by princes. But though the hereditary and venal eloquence of the Finches, the unscrupulous rascality of Ley, the eager servility of North,*

* Francis North entered the House of Commons in 1673, when he was sent by King's Lynn to Charles II.'s Long Parliament. His seat was not gained without the trouble and cost of two elections, for his first election was declared void, and he had again to offer himself to the constituency,—on which second occasion he was opposed by Sir Simon Taylor, a wealthy merchant of the place. Roger North's account of these elections affords graphic pictures of electioneering in the time of Charles II. "Before the writ came down," says Roger, speaking of the first election, "he made the town a visit and regaled the body with a very handsome treat, which cost him above one hundred pounds. . . . And when the writ was sent to the Sheriff of Norfolk, his lordship's engagements were such that he could not go down to the election himself, but sent a young gentleman, his brother, to ride for him (as they call it), and Mr. Matthew Johnson, since Clerk of the Parliament, for an economist, of which there was need enough. Their rule was to take but one house, and there to allow scope for all taps to run." Speaking of the second election the biographer says: "At first, all things seemed fair; but the night before the election there was notice given that Sir Simon Taylor, a wealthy merchant of wine in that town, stood, and had produced a butt of sherry, which butt of sherry was a potent adversary. All that night and next morning were spent in making dispositions for conduct of the interest, and such matters as belong to a contested election. But the greatest difficulty was to put off the numerous suitors for houses to draw drink, of which every one made friends to insinuate in their favour, as if the whole interest of the town depended upon it. But these gentlemen plenipos determined to take no other house but where they were, to let the quill, as well as the tap, run freely, which made an account of above three hundred pounds. After the election and poll closed, all the chiefs on both sides met to view the poll-books; and Sir Simon Taylor, being on his own knowledge of the people's

and the overbearing selfishness of Jeffreys* added much to that spurious grandeur of the law, which is measured by entries on the roll of the peerage: and though the four Stuart kings were always ready to flatter and caress individual lawyers, the entire legal profession suffered more from public disesteem during the seventeenth century than it had suffered in any previous hundred years, or has suffered since. The bench and bar became more and more odious to the people, and before Charles II.'s death—notwithstanding the influence of the peerages and pensions, and royal visits to the Inns of Court, with which three generations of Stuarts endeavoured to enhance the *éclat* of the law—country gentlemen were growing loth to educate their sons for a profession in which success was so rarely achieved without dishonour.

Few political lawyers have been convicted of a grave misdemeanour under circumstances of greater humiliation than those which attended Sir John Trevor's expulsion from the House of Commons; and no political lawyer on clear demonstration of corrupt behaviour, ever contrived to escape with less punishment than that which fell on the Master of the Rolls, who, whilst acting as Speaker of the Lower House, accepted a bribe for his influence in behalf of a proposed measure. A clever and persevering Welshman, John Trevor

names, satisfied that the election was against him, called for the indenture, and signed it with the rest." Francis North was upon the whole lucky in getting his seat for so little money. His successor paid more than 7000*l.* for the same honour. The biographer says, "But, long before that time, his lordship was removed into the Common Pleas, and Mr. Coke of Norfolk succeeded him in the burgess-ship of Lynn, but not so easy and cheap; for his managers did not keep in due bounds, but let loose the tap all over that large town, and made an account of 7000*l.* or more, resting due to the town, besides what had been paid for the expenses. Sir Simon Taylor opposed, and thought he had the returns, and being resolved to petition, was courted by the Earl of Danby, at the price of all his charges, which were not trifles, to forbear, as he did, else his lordship's son-in-law, Coke, at that conjuncture had been turned out." In Charles II.'s time the ordinary expenses of a contested election ranged between 100*l.* or 200*l.* and 2000*l.* Mr. Coke paid the prodigious sum of 3000*l.* in addition to "what had been paid for the expenses" and his opponent's bill of costs!!!

* Jeffreys was an exceptional character amongst the political lawyers of his country. Having dabbled in treason to the Crown, he made his fortune by treason to the people. A turncoat of a truly *legal* type passed from the mob to the court; but, unlike all the political barristers of the Stuart period, he never sate in the House of Commons. It may be added that perhaps no politician of his day is more accountable for the unpopularity of lawyers in parliament.

began life as clerk to his kinsman, "Old Arthur Trevor, of the Inner Temple;" and having through his relative's interest been called to the bar, he rose rapidly in his profession. Clinging to the skirts of Jeffreys, and also to the skirts of that judge's second wife (with whom he was generally believed to maintain a licentious intercourse, not unknown to her husband), the adventurer worked himself into practice. Charles II. made him a king's counsel, and in the first year of James II. he became Master of the Rolls and Speaker of the House of Commons. His parliamentary position and forensic success were the more remarkable, because he was a man of no eloquence or address, and his appearance was far from prepossessing. He was so aggressively and hideously cross-eyed that a witty barrister had no need to explain the sarcastic speech when he observed, "Justice is blind, but Equity squints—in the Rolls Court." The same personal defect was also the cause of infinite merriment in the House of Commons, where two members, on opposite sides of the chamber, often claimed the ear of the assembly at the same time, as each of them had "caught the Speaker's eye."

Holding his ground in the political arena, notwithstanding his devotion to James II. and his connexion with Jeffreys, Trevor became Speaker of William III.'s first regular parliament, and by cautiously serving the Whigs without losing the confidence of the Tories,* so far won the favour of the government that he was made First Lord Commissioner of the Great Seal, and was reappointed to the Mastership of the Rolls—which post he had lost on William's accession. But this prosperous course was stayed by an event that throws light on the public morality of the period. On March 7, 1695, whilst

* Trevor's services to the government educated him for the commission of the crime which caused his expulsion from the House of Commons. "Being a Tory in principle," Bishop Burnet says of this Master of the Rolls, "he undertook to manage that party, provided he was furnished with such sums of money as might purchase some votes; and by him began the practice of buying off men, in which hitherto the king had been kept to stricter rules. I took the liberty once to complain to the king of this method; he said he hated it as much as any man could do, but he saw it was not possible, considering the corruption of the age, to avoid it, unless he would endanger the whole." Thus employed to distribute bribes, it is not wonderful that he was ready to accept them. Hired to corrupt others, he was protected by no moral scruples when others endeavoured to corrupt him.

Sir John Trevor was acting as Speaker of the Commons, a committee, which had been appointed to inquire into certain charges against certain members, reported, "that there having been in the preceding session a bill pending in the House of Commons, promoted by the City of London, called 'The Orphans' Bill,' whereby a power was to be given to lay assessments on the public for the benefit of the corporation, an entry had been found in the books of the Common Council, 'That Mr. Chamberlain do pay to the Hon. Sir John Trevor, Knight, Speaker of the House of Commons, the sum of 1000 guineas, so soon as the said bill be passed into an act of parliament'—that a hint had been given to the Common Council that unless this sum were paid the bill would not pass—that Mr. Speaker knew of the order being made while the bill was passing—that when the bill passed two aldermen and the chamberlain waited on Mr. Speaker, with a compliment of thanks in the name of the City for his kindness in furthering the bill, and an order for the said guineas, which Mr. Speaker accepted—that two or three days after Mr. Speaker sent a messenger into the city with the said order and received the said guineas—and that the said order was forthcoming with this indorsement thereon, 'The within-mentioned 1000 guineas were delivered and paid unto the Hon. Sir John Trevor, this 22nd June, 1694, in the presence of Sir Robert Clayton and Sir Jas. Houblon, which, at 22*s.* exchange, comes to 1100*l.*'" A more flagrant case of corruption could not be easily imagined; and no sooner had the transaction come to the knowledge of the house than it was unanimously resolved, "That Sir John Trevor, Speaker of this House, receiving a gratuity of 1000 guineas from the City of London after the passing of the Orphans' Bill, is guilty of high crime and misdemeanour." Trevor was himself, as Speaker, compelled to put this resolution from the chair;* and as he put it neither of his eyes could discern a defender of

* In a pithy but inaccurate notice of Trevor, to which special reference will be made in a subsequent chapter, Roger North observes:—"Once upon a scrutiny of bribery in the House of Commons, in favour of one Cook, a creature of Sir Josiah Child's, who ruled the East India Company, it was plainly discovered that the Speaker Trevor had 1000*l.*, upon which the debate ran hard upon him, and he sate above six hours as prolocutor in an assembly that passed that time with calling him all to nought to his face; and, at length, he was forced, or yielded, to put the question

his conduct amongst Whigs or Tories. The "ayes" were not met by a single "no;" and the culprit was required to officially announce that in the unanimous opinion of the house over which he presided he stood convicted of a high crime. His expulsion followed in due course. One is inclined to think that in these days no English gentleman could outlive such humiliation for four-and-twenty hours. Sir John Trevor not only survived the humiliation, but remained a personage of importance in London society. Convicted of bribery he was not called upon to refund the bribe; and expelled from the House of Commons he was not driven from his judicial office. He continued to be Master of the Rolls till his death, which took place on May 20, 1717, in his official mansion in Chancery Lane. His retention of office is easily accounted for. Having acted as a vile negotiator between the two great political parties they were equally afraid of him. Neither the Whigs nor the Tories dared to demand his expulsion from office, fearing that in revenge he would make revelations alike disgraceful to all parties concerned.

Unabashed by his disgrace this Tory trimmer continued to cherish his disdain for Low Churchmen and Whigs, for whom his contempt and aversion had always been so outspoken that his good fortune after James II.'s fall was at the same time a signal proof of his own ability, and a signal proof of the prudent liberality of William's government. Of Trevor's intolerance towards his politico-religious adversaries, no better story is told than that which describes his encounter with Archbishop Tillotson. Meeting the primate one day in a public thoroughfare, near the House of Lords, the Master of the Rolls, who hated Tillotson for being a Low Churchman, had the ill-breeding to mutter audibly as he passed,

upon himself as in form, 'As many as are of opinion that Sir John Trevor is guilty of corrupt bribery by receiving, &c.,' and in declaring the sense of the house, declared himself guilty. The house rose, and he went his way, and came there no more. But whether the members thought that the being so baited in the chair was punishment enough; or for his taking such gross correction so patiently and conformably; or else, a matter once out of the way was thought of no more; it is certain that he never was molested further about that matter, but continued in his post of Master of the Rolls, equitable judge of the subject's interests and estates, to the great encouragement of prudent bribery for ever after."—*Life of Lord Keeper Guildford.*

"I hate a fanatic in lawn sleeves." Fortunately Tillotson had his wits about him, and instead of being startled into helplessness by this extraordinary assault, he replied to it with delightful effect. Stopping in his walk, the primate arrested the lawyer by a sign; and then, after a minute's pause, during which he coolly surveyed his enemy with evident amusement, he observed with deliberate enunciation, and in a tone of playfulness rather than of irritation, "And I hate a knave in any sleeves."

Many are the good stories about lawyers during the Stuart troubles who found politics a source of embarrassment. From the outbreak of the civil war in the time of Charles I., till the final destruction of the hopes of the Jacobites after the lapse of more than a hundred years, barristers were often sadly distracted by principle and selfishness, by attachment to party and devotion to personal interest. When the exiled Charles's fortunes were at their darkest, Clarendon is said to have meditated on the propriety of retiring from the wanderer's service, and is even said to have tendered his submission to Cromwell in a letter addressed to Mr. Secretary Thurloe. When the tables turned, and the royalists having come into power, republicans deemed it prudent to sue for mercy, Mr. Secretary Thurloe is said to have called on his old correspondent and shown the great Lord Chancellor Clarendon the letter written by Edward Hyde. This story is by some judges deemed apocryphal, but it is true to the life of the period which may be said to have closed with those grim trials whereby the Lords Lovat and Balmerino, and certain other bold traitors, were sent against their will to the next world. In the trials of the rebel lords a conspicuous part was played by William Murray, the Solicitor General, subsequently Lord Mansfield. In prosecuting these culprits, Murray acted against men with whom he had formerly sympathized, and whose cause had been aided by the blood and treasure of his nearest relations. Lord Campbell observes—"Murray must have viewed the struggle with divided feelings. He had cast in his lot with the new dynasty; but his second brother, whom he dearly loved, had been twenty years in the service of the Pretender, had been created by him Earl of Dunbar, and was supposed to be his

destined prime minister." Indeed the aged Lovat was cousin to the successful lawyer, in whose breast youthful Jacobitism had been replaced by ardent devotion to the Hanoverian cause; and to this relationship the old lord alluded in a few graceful words after the unanimous verdict of guilty had been given. During the trials, whilst the peers had adjourned for refreshment, Lord Lovat had complimented Murray on his speech, and added, "But I do not know what the good lady your mother will say to it, for she was very kind to my clan as we marched through Perth to join the Pretender." It is certain that Horace Walpole was in error when he charged Murray with acting harshly and insolently towards the rebel prisoners. The letter-writer was wrong in giving Balmerino's name when he should have given Lovat's, and still more wrong in attributing brutality to the lawyer, who, though a man of cold nature, never sinned against good taste, and who on the occasion of Lovat's trial—in which he acted as a manager of the prosecution for the House of Commons, not as a crown lawyer—was especially courteous and considerate towards the prisoner.

CHAPTER LVII.

THE PEERS.

DURING the reign of George III. there was a steady increase in the number of lawyers, who, satisfied with an abundance of strictly professional employment, held themselves aloof from the uncertain contentions of politics; but from that monarch's accession until the passing of the Reform Bill in 1832, the most eminent members of the bench and the bar were active party-men, and are remembered by the present generation quite as much for their political services as for their forensic celebrity. Thurlow, Wedderburn, Scott, Erskine, Copley, Romilly, and Brougham are names that carry the mind back to the parliamentary struggles in which they took part. The policies which they favoured or opposed, the measures which they promoted or hindered, are known to all educated Englishmen; but their most masterly speeches in the courts of law are forgotten by all save lawyers, with the exception of a few orations which were inspired by political fervour, and are, consequently, preserved from oblivion by political sympathy.

It is credible that Thurlow was not, at heart, a narrow partisan. Sympathizing with success, he always meant to fight on the winning side; but more daring or more shameless than most time-serving politicians, he took but small pains to conceal his true character. At the time of the king's first illness the Tory Chancellor showed himself quite ready to serve the Whigs if they should ever need his assistance; and at a later period, as a purely official upholder of Church and State, he frankly told a deputation of nonconformists that he would join them and cordially adopt their religious opinions as soon as their sect had made itself the Established Church.

And when his political life met a premature and violent end, he gave the following characteristic counsel to Sir John Scott:—"Stick by Pitt; he has tripped up my heels, and I would have tripped up his if I could. I confess I never thought the king would have parted with me so easily. My course is run, and for the future I shall remain neutral. But you must on no account resign; I will not listen for a moment to such an idea. We should be looked on as a couple of fools. Your promotion is certain, and it shall not be balked by any such whimsical proceedings." Though this friendly and generous speech contains little to which the moralist can take exception, it must be admitted that its tone leaves no room for doubt that the speaker regarded politics as a game in which clever men sought personal advancement, and stuck to those who could help them.

To Alexander Wedderburn, more than to any other lawyer of his period, must be attributed the still popular belief that in political affairs a lawyer's promises are at best no more than indications of the course which he thinks it will be most profitable for him to pursue. "I am not surprised, but grieved," was Lord Camden's comment on the clever Scotchman's desertion of his old friends at the close of 1770; and it was not the last occasion when those who were credulous enough to rely on his word had reason to utter the same criticism. And yet this man, whose name has become a by-word for perfidy, and the shame of whose dishonesty still rests upon the profession which he at the same time dishonoured and adorned, had the effrontery to stigmatize Benjamin Franklin as a thief before a committee of the Privy Council, because certain letters concerning the public affairs of the American colonists had come into the hands of the American envoy. Nominally private, but written by the Lieutenant-Governor and the Chief Justice of Massachusetts, to George Grenville's private secretary, Mr. Whately, and containing recommendations that soldiers should be employed to awe the people of Massachusetts into submission, these letters had come into the hands of Franklin, whilst he was agent for Massachusetts. Consigned to him for use in behalf of his constituents, the envoy sent them to the Speaker of Massachusetts House of Assembly; and when the papers

were subsequently laid before the Privy Council, Wedderburn (acting as Solicitor General for that government, to serve which he betrayed his former companions) had the diabolical malignity to exclaim—"How they came into the possession of any one but the right owners is still a mystery for Dr. Franklin to explain. He was not the rightful owner, and they could not have come into his hands by fair means. Nothing will acquit Dr. Franklin of the charge of obtaining them by fraudulent or corrupt means, for the most malignant of purposes—unless he stole them from the person who stole them. This argument is irrefragable. I hope, my lords, you will mark and brand the man, for the honour of this country, of Europe, and of mankind. Private correspondence has hitherto been held sacred in times of the greatest party rage, not only in politics, but in religion. The betrayer of it has forfeited all the respect of the good, and of his own associates. Into what companies will the fabricator of this iniquity hereafter go with an unembarrassed face, or with any semblance of the honest intrepidity of virtue? Men will watch him with a jealous eye—they will hide their papers from him, and lock up their escritoires. Having hitherto aspired after fame by his writings, he will henceforth esteem it a libel to be called a *man of letters*—'homo trium literarum.'"

"I am not surprised but grieved," was the honest Franklin's mental ejaculation, as he thought of all the harm which that legal turncoat's speech would work on the other side of the Atlantic. With what justice might Burke or any sympathizer with the colonists have addressed Lord North's Solicitor General with the same cutting words that Parr unjustly used at a later day in his memorable altercation with Sir James Mackintosh.*

Erskine's high place amongst political barristers is rendered

* Soon after O'Coigley's execution, Sir James Mackintosh, just at the time when he was unjustly suspected of having made terms with the Tories, observed to Parr—"Anyhow, O'Coigley was a prodigious scoundrel. A worse man cannot be imagined." "Nay, Jammie, you're wrong, man," the great Whig scholar replied, with scathing intonation, his eye glowing with contemptuous animosity whilst he spoke with torturing slowness as well as significance: "he was an Irishman, he might have been a *Scotchman*—Jammie. He was a priest, he might have been a *lawyer*—Jammie. He was a traitor, but—Jammie—he might have been an *apostate*."

all the more remarkable by his comparative failure as a parliamentary debater. Extreme in his political views, he made his place, and, to a great degree, kept it, at the bar, by acting the part of the forensic champion of Liberal opinions; but, though his services to the popular party were almost inestimable, and though his more inflammatory orations raised in the middle and lower classes of the country a spirit of generous intolerance of oppression, he was never a really effective speaker in either House of Parliament, and as a senator in either assembly he had scarcely any more weight than an ordinary member. His first speech in the House of Commons was an humiliating miscarriage; and, unlike Sheridan, Disraeli, and other brilliant debaters who commenced parliamentary life with an oratorical *fiasco*, he never obliterated the unfavourable impression of his maiden effort.

This memorable discomfiture occurred in 1783, in the debate on Fox's India Bill. The importance of the measure, to parties as well as to India, would have alone ensured a strong muster of members; but curiosity to witness the great advocate's *début* in a new arena, had drawn to the house many strangers and members who were indifferent to the fate of the bill or of its introducer. Amongst those who watched the new member with keen scrutiny, and listened to the opening periods of his address with intense excitement, no one was more vigilant and interested than young William Pitt. Himself a barrister, who had read law assiduously and proved his forensic ability in courts of law ere he decided to make politics the pursuit of his life, Pitt entered the House with the full intention of replying to the new comer. Having taken his place he inclined his face towards Erskine, and throughout the delivery of a considerable part of the maiden speech, he alternately gazed at the orator's countenance with significant intentness, and with theatrical ostentation took notes of his remarks. For a time the attention of mere idle spectators of the scene was divided between Chatham's son and the best speaker of the common-law bar. There was a feeling of disappointment amongst Erskine's friends, and a corresponding satisfaction possessed his adversaries, when it was seen that Mr. Pitt gradually became less and less attentive—that his eyes ceased

to scan the speaker's face—that his pen was no longer busy on the paper that lay before him. Erskine saw the change in his antagonist's air, and that superb egotism which usually nerved him to make greater efforts, ceased to aid his powers. Pitt's keen eye and supercilious smile made him hesitate and wander; and then just as the victim's confusion was manifest to the house, a disdainful sneer curled the lip of his tormentor, and in another minute the pen had been contemptuously dashed through the notes, the paper torn through and through, and the pieces thrown together with the pen on the floor of the house. Such pantomime was not deemed out of place in the parliaments of our grandfathers, who applauded Burke's dagger scene, and found their most intellectual recreation in the theatres of the town. Erskine saw the by-play which made him for the moment contemptible, and his annoyance was the more acute because he knew that Pitt personally disliked him. At the time of this singular contest Erskine was thirty-three years of age; and Pitt, the marvellous boy of politics, was only twenty-four. Young men must be content now-a-days to let their seniors govern the land. *They* had it all their own way when George III. was king.

Erskine never altogether overcame the effects of his unfortunate *début* in the Commons, where Pitt, having worsted him at the outset, treated him with undeserved disrespect and contemptuous hostility to the last; and in the Upper House he never did justice to his powers, though he was upon the whole a personally popular, and at times a loquacious rather than eloquent member.* But though his parliamentary career was at best one of inferior distinction, he was emphatically a

* A note should preserve Erskine's estimate of prize-fighters, which may be found in one of his speeches to the Peers in behalf of his famous measure for the Prevention of Cruelty to Animals. "As to the tendency of barbarous sports," he observed, "of any description whatsoever, to nourish the national characteristic of manliness and courage—the only shadow of argument I ever heard on such occasions —all I can say is this—that from the mercenary battles of the lowest of beasts—human boxers—up to those of the highest and noblest that are tormented by man for his degrading pastime, I enter this public protest against such reasoning. I never knew a man remarkable for heroic bearing, whose very aspect was not lighted up by gentleness and humanity, nor a *kill-and-eat-him* countenance that did not cover the heart of a bully or a poltroon."

political barrister. In private life as well as in public he was at all times a keen, though never an acrimonious, politician, displaying the strength of his convictions in modes that were usually forcible, and sometimes whimsical. Thus his fantastic motto, "Trial by Jury" (which Lord Campbell compares with "Quid rides," which was assigned to a prosperous carriage-driving tobacconist, with the commendatory remark that it would be equally applicable uttered as Latin or as English), was an avowal of political feeling, rather than a professional sentiment. Nor was his political fervour more remarkable than his political disinterestedness and consistency. Eldon was equally firm and thorough; but his disinterestedness was never fairly put to the trial. At Oxford, in '34, when the Duke of Wellington was installed as Chancellor of the University, the Tory earl and champion of the Church was greatly delighted by the cry, "There is old Eldon; cheer him! for he never ratted!" Recounting the incident, the veteran added: "I was very much delighted, for I never did rat! I will not say that I have been right through life; I may have been wrong; but I will say that I have been consistent." Whilst he indulged in this self-gratulation, it does not seem to have occurred to the ex-Chancellor that his consistency had never cost him a single sacrifice,—that it had enabled him to hold the seals for more than thirty years,—that it had been displayed in the course which was more conducive to his fortunes than any other conceivable line of action could have been, and that at no period of his life could desertion of party or principle have secured him even so much as a temporary advantage. Erskine's public virtue, on the other hand, was tested by temptation.

Of legal turncoats, Lord Ellenborough was of a common and not most offensive sort. A Whig till he had fairly entered middle life, *i.e.*, till his forty-third year, he suddenly went over to the Tories, and became the malevolent and contemptuous adversary of his former friends. But this change was made nine years before he entered parliament as member for a close borough, on his appointment to the Attorney Generalship. "Sir Edward! Sir Edward!" George III. inquired of his new Attorney, "have you ever been in parliament?" "No, sir,"

was the answer; "I am about to enter the House of Commons for the first time." "Right, Sir Edward; quite right, Sir Edward," rejoined the king: "you will not eat your own words, Sir Edward, as so many of your predecessors have been obliged to do, Sir Edward." Edward Law was fully alive to the advantages of his position, and in after-life he warmly resented every attempt to lessen them by allusions to the character of his political creed in the earlier part of his career. Like other eminent politicians who have changed sides under similar circumstances, he warmly contended that it was ungenerous and unjust to stigmatize as a renegade the man who, having turned his coat before entering parliament, had been true to one party throughout his parliamentary career. Indeed he went so far as to maintain that no reference should ever be made to the pre-parliamentary politics of public men. Lord Lyndhurst held the same opinions as Law on this matter; but though eminent and really useful statesmen may find it convenient to draw this line between the pre-parliamentary and parliamentary careers of senators, the doctrine really amounts to this—that, whilst it is base for members of parliament to be turncoats, politicians who are not in parliament should be left at liberty to play fast and loose with their pledges, and, according to their natures, to be either fickle or false without incurring derision or odium.

In these later years that shameless tergiversation,* which was frequent amongst the political lawyers of the last century, has not often scandalized the more honourable members of the House of Commons and of society. And if the past history of parliament contributes many scandalous episodes for the writers of legal biographies, it may be urged in behalf of the lawyers that no other members are subjected to equal temptations to perfidy. Whereas in the most corrupt times the non-legal senator has been taught to regard bribes as alike dishonourable to their

* For such strong language let a legal authority be quoted. In his Life of Lord Chancellor King, Campbell says:—"According to a very common professional course followed before and since—so often as to be free from lasting disgrace—the ambitious young lawyer should have *ratted*—asserting that his old friends had changed their principles, and were now going such lengths as he could not consistently support them; but through good report and evil report he steadily adhered to the cause of civil and religious liberty."

givers and receivers, and has never been *openly* bought, lawyers in parliament have been educated to seek and accept without concealment certain bribes specially set apart for their order. Whereas the non-legal burgess and knight (under that infamous system of corruption which Bishop Burnet attributes to the crafty suggestions of a lawyer*) were tempted with comparatively small sums of money or trivial pensions, the wearers of the long robe were bought with lucrative places, judgeships—ay, even peerages. Thus the lay member seldom endured the degree of temptation which tested the virtue of the lawyer on the opposition benches. Again, the usages of their profession and the sanctions of custom strengthened the lawyer's selfish instincts, and made *ratting* a comparatively venial offence when it was perpetrated by a member of his order. Educated to talk for a fee, and to take his side without reference to the merits of the case in dispute, the advocate brought the conventional morality of the bar into parliament; and he talked there for personal advancement, just as he daily talked in the law-courts hard-by for pecuniary gain. Instead of insisting that he should regulate his conduct by a different and higher moral standard when he acted in parliamentary affairs, kings, ministers, and succeeding generations of society encouraged him to look for briefs in St. Stephen's Chapel, just as he looked for them in Westminster Hall.

At the present time, when lawyers are more amenable to public opinion, ministerial patronage cannot be justly said to demoralize them; and the public worth and unimpeachable integrity of the gentlemen on either side of the house, who represent the legal profession in the present parliament, are sufficient proof that in their eager pursuit of office our most illustrious advocates are not likely to disregard the dictates and obligations of honour. But still the old distrust of lawyers, and the ancient national prejudice against their order, are amongst the noticeable moral features of parliament. As

* *i.e.* Lord Commissioner Trevor, of whom Burnet, in words previously quoted, says, "Being a Tory in principle, he undertook to manage that party, provided he was furnished with such sums of money as might purchase some votes; and by him began the practice of buying off men, in which the king had hitherto kept to stricter rules."

soon as a lawyer rises and addresses the Speaker, he is believed to be pleading—for place. Of course this remark does not apply to such members as Mr. Roebuck, who, though he deservedly enjoys the rank of Q.C., has long ceased to be a working member of his profession, or indeed to be regarded as a legal gownsman. But it applies to every lawyer, whatever his status in Westminster Hall or Lincoln's Inn, who is known to be willing to accept a judgeship. Whether this prejudice—and the writer ventures to think it altogether an *unjust* prejudice—will ever completely disappear it is impossible to predict; but there is reason to fear that it will never altogether die out, whilst crown lawyers take and lose office together with administrations—that is to say, whilst, lawyers are officially attached to parties, and as standing-counsel for them are required to defend their employers, just as if those employers were ordinary clients. Whether reasons really exist that render the present system necessary or advisable, whether crown lawyers could not be safely permitted as in old times to hold office without respect to the policies of governments and the politics of ministers, are questions unsuitable to the present work; and the writer does not venture to give an opinion with regard to them. Certain politicians, however, maintain that judgeships should no longer be offered as rewards for political services, but should be bestowed on the best lawyers who will accept them; that crown lawyers could give sound legal advice to cabinets from whose policy they differed, just as easily as they could give good counsel on points of law to private clients whose prudence they questioned and whose schemes they condemned; that whilst no good purpose is served, many evil ends are promoted, by the present system which refers our governments for legal advice to men who are more likely to direct them as partisans than as lawyers; and that in the practical working of party government no grave embarrassment would occur, though much advantage would follow, if the Lord Chancellor himself were to hold office like other judges during his own good conduct, instead of the good conduct of a junto of statesmen. That the views of these reformers are wise or foolish the writer does not venture to offer an opinion; but it may be confidently predicted that, if their proposals were carried out and found to

work well, the law would gain in moral influence and consequent popularity whatever it might lose in honours and emoluments.

Lord Campbell's statement that the Upper House cherishes no antagonism to lawyers may be met in two ways. The statement may be called in question, or the fact may be accounted for by reference to manifest considerations. When it has been admitted that the two houses present this difference of feeling, it may be remarked that the upper has far less ground than the lower assembly for disliking professional advocates. Whereas the popular chamber always contains an excess of the legal element, and amongst its strong force of loquacious advocates usually harbours a few of the unquestionable black sheep of the bar, the lawyers who force their way into the ranks of the hereditary senators are invariably men of uncommon ability and attainments; and in a great majority of cases their intellectual endowments are fully sustained by their moral qualities. The "law lords" are the choicest flower of their profession; whereas in the Lower House the law is sometimes dishonoured by importunate barristers, who render themselves conspicuous amongst the parliamentary riff-raff, which Mr. Disraeli once happily termed "the vagabond population of the House of Commons." Naturally therefore lawyers are more respected by the peers than they are by the Commons. Again, when lawyers enter the House of Lords they have made their game in life, and having won the highest prizes open to their ambition they have outgrown motives and considerations that may have rendered them liable to censure in earlier years. The lawyer who has won every honour to which he can reasonably aspire is less likely to be unscrupulous and grasping than the lawyer who is still striving for pre-eminence, surrounded by a throng of eager competitors. It often happens that in the Upper House courtesy, moderation, and a nice sense of honour, are said to be the characteristics of the legal peer who in the Commons was no less remarkable for overbearing temper, pugnacity, and craft.

But it may be doubted whether the peers have much love or toleration for lawyers. They cordially liked Eldon, who never opposed the peculiar prejudices of their order, and they

venerated Lyndhurst when extreme age had made him an object of affectionate interest to those who most warmly disapproved his principles; but they have no decided partiality for Lord Westbury who ventures to lecture them—they were uneasy and resentful towards Brougham, so long as he tried their patience with frequent speeches—they were not enthusiastic in their admiration of Erskine—and they were on the point of rebelling against Thurlow when he literally scolded them into submission.

It was in 1779, when he was still a new Lord Chancellor, that Thurlow made his crushing reply to the Duke of Grafton, who had taunted the burly lawyer with his plebeian origin. The insult, offered during the inquiry into the Earl of Sandwich's administration of Greenwich Hospital, was promptly answered. Leaving the woolsack, the Chancellor walked slowly to a spot near the top of the Dukes' bench—from which place he ordinarily addressed the house—and having deliberately taken up his position, he surveyed the offender with those terrible black eyes, the wrathful light of which few antagonists could face without flinching. Before the country clergyman's son had spoken a word, the Duchess of Cleveland's descendant felt the despicable nature of his misconduct, and saw the magnitude of his blunder.

Soon the stillness of the house was broken by Thurlow's grand voice, saying, "I am amazed."

Another pause.

And then in a louder tone the vindicator of his personal honour continued:—"Yes, my lords, I am amazed at his grace's speech. The noble duke cannot look before him, behind him, or on either side of him, without seeing some noble peer who owes his seat in this house to successful exertions in the profession to which I belong. Does he not feel that it is as honourable to owe it to these, as to being the accident of an accident? To all these noble lords the language of the noble duke is as applicable and as insulting as it is to myself. But I don't fear to meet it single and alone. No one venerates the Peerage more than I do; but, my lords, I must say that the Peerage solicited me, not I the Peerage. Nay, more, I can say, and will say, that as a Peer of Parliament,

as Speaker of this right honourable house, as Keeper of the Great Seal, as Guardian of His Majesty's Conscience, as Lord High Chancellor of England, nay, even in that character alone in which the noble duke would think it an affront to be considered—as a man—I am at this moment as respectable—I beg leave to add, I am at this moment as much respected—as the proudest peer I now look down upon."

From the date of that speech until his final retirement from office, Thurlow was the despot of the Upper House, ruling its members with a haughty arrogance such as no subsequent Chancellor has ventured to display. Nor was the speech less effectual beyond the circle of its actual hearers. Redounding to the honour of the law and the respectability of the grade from which he had risen, it delighted the speaker's profession, and inspired the middle classes with a sense of their worth and dignity; and thus, whilst the proudest nobles of the land had enough generosity to applaud the Chancellor's spirit, the multitude found pleasure in repeating his words.

PART XI.—LEGAL EDUCATION.

CHAPTER LVIII.

INNS OF COURT AND INNS OF CHANCERY.

SCHOOLS for the study of the Common Law existed within the bounds of the City of London at the commencement of the thirteenth century; and though but little is known about them, it is certain that they attracted the attention of government, and were regarded by the citizens as important features of the town. No sooner had a permanent home been assigned to the Court of Common Pleas than legal practitioners fixed themselves in the neighbourhood of Westminster or within the walls of London, in localities where their clients either resided, or on coming from the country could with ease find lodging and entertainment. A legal society speedily grew up in the City; and some of the older and more learned professors of the Common Law, devoting a portion of their time and energies to the labours of instruction, opened academies for the reception of students. Dugdale notices a tradition that in ancient times a law-school, called Johnson's Inn, stood in Dowgate, that another existed in Pewter Lane, and that Paternoster Row contained a third; and it is generally thought that these three inns were amongst the academies which sprung up as soon as the Common Pleas obtained a permanent abode.

The schools thus established in the opening years of the thirteenth century were not allowed to flourish for any great length of time; for in the nineteenth year of his reign, Henry III. suppressed them by a mandate addressed to the mayor and sheriffs of the City. Many conjectures have been made, but nothing is known concerning the motives which

induced the king to dissolve these seminaries. It has been supposed that he wished to discourage the study of the Common Law, and it has also been stated that he suppressed the City schools in order that he might benefit certain inns recently set up in the suburbs of the town. Some few persons incline to the opinion that the law students were driven beyond the walls of the town, because they stirred up political discontent amongst the citizens. But though Henry III. broke up the schools, the scholars persevered in their study; and if the king's mandate aimed at a complete discontinuance of legal instruction, his policy was signally defeated.

Successive writers have credited Edward III.'s reign with the establishment of Inns of Court; and it has been erroneously inferred that the study of the Common Law not only languished, but was altogether extinct during the period of nearly one hundred years, that intervened between Henry III.'s dissolution of the City schools and Edward III.'s accession. Abundant evidence, however, exists that this was not the case. Edward I., in the twentieth year of his reign, ordered his judges of the Common Pleas to "provide and ordain, from every country, certain attorneys and lawyers" (in the original, "atturnatis et *apprenticiis*") "of the best and most apt for their learning and skill who might do service to his court and people; and those so chosen, and no other, should follow his court, and transact affairs therein;" the words of which order make it clear that the country contained a considerable body of persons who devoted themselves to the study and practice of the law. So also in the Year-Book, 1 Ed. III., the words, "et puis une apprentise demand," show that lawyers holding legal degrees existed in the very first year of Edward III.'s reign; a fact which justifies the inference that in the previous reign England contained Common Law schools capable of granting the legal degree of apprentice. Again Dugdale remarks, "In 20 Ed. III., in a *quod ei deforciat* to an exception taken, it was answered by Sir Richard de Willoughby (then a learned justice of the *Common Pleas*) and William Skipwith (afterwards also one of the justices of that court), that the same was no exception amongst the *Apprentices in Hostells or Inns.*" Whence it is manifest that Inns of Court were institutions in full vigour at

the time when they have been sometimes represented as originally established.

But after their expulsion from the City there is reason to think that the common lawyers made no attempt to reside in colleges within its boundaries. They preferred to establish themselves on spots where they could enjoy pure air and rural quietude, could surround themselves with trees and lawns, or refresh their eyes with the sight of the silver Thames. In the earlier part of the fourteenth century they took possession of a great palace that stood on the western outskirt of the town, and looked westwards upon green fields, whilst its eastern wall abutted on New Street—a thoroughfare that was subsequently called Chancellor's Lane, and has for many years been known as Chancery Lane. This palace had been the residence of Henry Lacy, Earl of Lincoln, who conferred upon the building the name which it still bears. The earl died in 1310, some seventeen years before Edward III.'s accession; and Thynne, the antiquary, was of opinion that no considerable period intervened between Henry Lacy's death and the entry of the lawyers. In the same century the lawyers took possession of the Temple. The exact date of their entry is unknown; but Chaucer's verse enables the student to fix, with sufficient preciseness, the period when the more noble apprentices of the law first occupied the Temple as tenants of the Knights Hospitallers of St. John of Jerusalem, who obtained a grant of the place from Edward III.* The absence of fuller particulars concern-

* Chaucer mentions the Temple thus:—

"A manciple there was of the Temple,
Of which all catours might take ensemple,
For to be wise in buying of vitaile;
For whether he pay'd or took by taile,
Algate he wayted so in his ashate,
That he was aye before in good estate.
Now is not that of God a full faire grace,
That such a leude man's wit shall pace
The wisdome of an heape of learned men?
Of masters had he mo than thrice ten,
That were of law expert and curious,
Of which there was a dozen in that house,
Worthy to been stewards of rent and land
Of any lord that is in England;

ing the early history of the legal Templars is ordinarily and with good reason attributed to Wat Tyler's rebels, who destroyed the records of the fraternity by fire. Curious accounts of this raid upon the collegiate stronghold are given by reliable writers. Walsingham, who received his facts from eye-witnesses of the devastation, informs us that the insurgents bore no special ill-will to the lawyers, but were inspired by hatred of Robert de Hales, Master of the Knights of St. John.* Seldom have tenants suffered more severely from the unpopularity of their landlords. From roof to basement, beginning with the tiles, and working downwards, the mob destroyed the principal houses of the college; and when they had burnt all the archives on which they could lay hands, they went off and expended their remaining fury on other buildings, of which the Knights of St. John were proprietors.

The same men who saw the lawyers take possession of the Temple on the northern bank of the Thames, and of the Earl of Lincoln's palace in New Street, saw them also make a third grand settlement. The manor of Portepoole, or Purpoole, became the property of the Grays of Wilton in the twenty-second year of Edward I.; and on its green fields, lying north of Holborn, a society of lawyers established a college which still

> To maken him live by his proper good
> In honour debtless, but if he were wood;
> Or live as scarcely as him list desire,
> And able to helpen all a shire,
> In any case that might have fallen or hap.
> And yet the manciple sett all her capp."

* Walsingham's account is most graphic. He says—"Quibus perpetratis satis maliciose etiam locum qui vocatur Temple Barrs, in quo apprenticii juris morabantur nobiliores, diruerunt ob iram quam conceperant contra Robertum de Hales, magistrum hospitalis sancti Johannis, de quo præfati sumus, ubi plura munimenta quæ juridici in custodia habuerant igne consumpta sunt. Et amplius insanientes illam domum nobilem hospitalis sancti Johannis de Clerkenwell immisso igne ardere fecerunt per continuos septem dies." The author of an old Norman-French record, quoted in "Hearne's Curious Discourses," writes:—"Les Rebells alleront a le Temple, et jetterons les measons a le terre et avegheront les Tighles, issient que ils fairont coverture en mal array, et alleront en l'eglise, et pristeront touts les livres et rolles de remembrances, que fueront en lour Hutches or Cottuges deins le Temple de Apprentices de la ley et porteront in le haut chimene, et les arderont." These two passages seem to have been in Stow's mind when he penned his spirited description of the sack of the Temple by Tyler's rebels.

retains the name of the ancient proprietors of the soil. Concerning the exact date of its institution, the uncertainty is even greater than that which obscures the foundations of the Temple and Lincoln's Inn; but antiquaries have agreed to assign the creation of Gray's Inn, as an hospicium for the entertainment of lawyers, to the time of Edward III.

The date at which the Temple lawyers split up into two separate societies is also unknown; but assigning the division to some period posterior to Wat Tyler's insurrection, Dugdale says, "But, notwithstanding this spoil by the rebels, those students so increased here, that at length they divided themselves into two bodies: the one commonly known by the Society of the Inner Temple, and the other of the Middle Temple, holding this mansion as tenants." But as both societies had a common origin in the migration of lawyers from Thavies Inn, Holborn, in the time of Edward III., it is usual to speak of the two Temples as instituted in that reign, and to regard all four Inns of Court as the work of the fourteenth century.

Besides these four Inns of Court there were certain inferior seminaries, called Inns of Chancery, of which notice should be taken.

The Inns of Chancery for many generations maintained towards the Inns of Court a position similar to that which Eton School maintains towards King's at Cambridge, or that which Winchester School holds to New College at Oxford. They were seminaries in which lads underwent preparation for the superior discipline and greater freedom of the four colleges. Each Inn of Court had its own Inns of Chancery, yearly receiving from them the pupils who had qualified themselves for promotion to the status of Inns-of-Courtmen. In course of time, students, after receiving the preliminary education in an Inn of Chancery, were permitted to enter an Inn of Court on which their Inn of Chancery was not dependent; but at every Inn of Court higher admission fees were charged to students coming from Inns of Chancery over which it had no control, than to students who came from its own primary schools. If the reader bears in mind the difference in respect of age, learning, and privileges between our modern public schoolboys and university undergraduates, he will realize with sufficient

nearness to truth the differences which existed between the Inns of Chancery students and the Inns of Court students in the fifteenth century; and in the students, utter-barristers, and benchers of the Inns of Court at the same period he may see three distinct orders of academic persons closely resembling the undergraduates, bachelors of arts, and masters of arts in our universities.

In the "De Laudibus Legum Angliæ,"* written in the latter half of the fifteenth century, Sir John Fortescue says—"But to the intent, most excellent Prince, yee may conceive a forme and an image of this study, as I am able, I wil describe it unto you. For there be in it ten lesser houses or innes, and sometimes moe, which are called Innes of the Chauncerye. And to every one of them belongeth an hundred students at least, and to some of them a much greater number, though they be not ever all together in the same. These students, for the most part of them, are young men (juvenes), learning or studying the original, and, as it were, the elements of the lawe, who profitting therein, as they grow to rypenesse; so are they admitted into the greater innes of the same studie, called Innes of Court. Of the which greater Innes there are fower in number, and to the least of them belongeth, in fourme above mentioned, two hundred students or thereabout." In this passage the special function of the Inne of Chancery as a preparatory school is emphatically declared.

It also appears from the same passage that the number of these inferior seminaries fluctuated. "For there be in it ten lesser houses or Innes, and sometimes moe." In Charles II.'s time their number was eight.

Of this number three were subsidiary to the Inner Temple—viz., Clifford's Inn, Clement's Inn, and Lyon's Inn. Clifford's Inn (originally the town residence of the Barons Clifford) was first inhabited by law-students in the eighteenth year of Edward III. Clement's Inn (taking its name from the adjacent St. Clement's Well) was certainly inhabited by law-students as

* The "De Laudibus" was written in Latin; but for the convenience of readers not familiar with that classic tongue, the quotations from the treatise are given from Robert Mulcaster's English version.

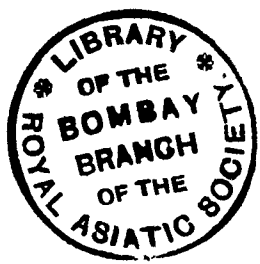
early as the nineteenth year of Edward IV. Lyon's Inn was an Inn of Chancery in the time of Henry V.

One alone (New Inn) was attached to the Middle Temple. Of this Inn, Dugdale, with a reference to Stow, observes—"This house having been formerly a common hostelry or inne for travaillers and other; and from the sign of the blessed Virgin, called our Lady Inne, became first an hostel for students of the law (as the tradition is) upon the removal of the students of the law from an old Inn of Chauncery called St. George his Inne, situate near Seacole Lane, a little south from St. Sepulchre's Church, without Newgate." In the previous century, the Middle Temple had possessed another Inn of Chancery called Strand Inn; but in the third year of Edward VI. this nursery was pulled down by the Duke of Somerset, who required the ground on which it stood for the site of Somerset House.

Lincoln's Inn had for dependent schools Furnival's Inn and Thavies Inn—the latter of which hostels was inhabited by law-students in Edward III.'s time. Of Furnival's Inn (originally Lord Furnival's town mansion, and converted into a law-school in Edward VI.'s reign) Dugdale says: "After which time the Principall and Fellows of this Inne have paid to the society of Lincoln's Inne the rent of iii^{l} vi^{s} iii^{d} as an yearly rent for the same, as may appear by the accompts of that house; and by speciall order there made, have had these following priviledges: first (viz. 10 Eliz.) that the utter-barristers of Furnivall's Inne, of a yeares continuance, and so certified and allowed by the Benchers of Lincoln's Inne, shall pay no more than four marks apiece for their admittance into that society. Next (viz. in 11 Eliz.), that every fellow of this inne, who hath been allowed an utter-barrister here, and that hath mooted here two vacations at the Utter Bar, shall pay no more for their admissions into the Society of Lincoln's Inne than xiii^{s} iiii^{d}, though all utter-barristers of any other Inne of Chancery (excepting Thavyes Inne) should pay xx^{s}, and that every inner-barrister of this house, who hath mooted here one vacation at the Inner Bar, should pay for his admission into this House but xx^{s}, those of other houses (excepting Thavyes Inne) paying xxvi^{s} viii^{d}." From this passage (to which reference will

be made in a subsequent chapter of this work), it appears that the students of the Inns of Chancery were divided into ranks corresponding with the various ranks of Inns of Court Men; and that their scholastic orations and exercises imitated the speeches and proceedings of Westminster Hall.

The subordinate seminaries of Gray's Inn, in Dugdale's time, were Staple Inn and Barnard's Inn. Originally the Exchange of the London woollen merchants, Staple Inn was a law-school as early as Henry V.'s time. It is probable that Barnard's Inn became an academy for law-students in the reign of Henry VI.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CHAPTER LIX.

LAWYERS AND GENTLEMEN.

THUS planted in the fourteenth century beyond the confines of the City, and within easy access of Westminster Hall, the Inns of Court and Chancery formed an university, which soon became almost as powerful and famous as either Oxford or Cambridge. For generations they were spoken of collectively as the law-university, and though they were voluntary societies —in their nature akin to the club-houses of modern London— they adopted common rules of discipline, and an uniform system of instruction. Students flocked to them in abundance; and whereas the students of Oxford and Cambridge were drawn from the plebeian ranks of society, the scholars of the law-university were invariably the sons of wealthy men and had usually sprung from gentle families. Whilst the colleges on the banks of the Isis and Cam sheltered or drew within the shadow of their walls a vast multitude of indigent, ragged, low-born scholars, the colleges on the banks of the Thames were frequented by the flower of England's youth, and entertained no pupil who had not the port and position of a gentleman. To be a law-student was to be a stripling of quality. The law-university enjoyed the same patrician *prestige* and *éclat* that now belong to the more aristocratic houses of the old universities.

Noblemen sent their sons to it in order that they might acquire the style and learning and accomplishments of polite society. A proportion of the students were encouraged to devote themselves to the study of the law, and to attend sedulously the sittings of Judges in Westminster Hall; but the majority of well-descended boys who inhabited the Inns of Chancery were heirs to good estates, and were trained to

become their wealth rather than to increase it—to perfect themselves in graceful arts, rather than to qualify themselves to hold briefs. The same was the case in the Inns of Court, which were so designated—not because they prepared young men to rise in courts of law, but because they taught them to shine in the palaces of kings. It is a mistake to suppose that the Inns of Court contain at the present time a larger proportion of idle members, who have no intention to practise at the bar, than they contained under the Plantagenets and Tudors. On the contrary, in the fourteenth and fifteenth centuries, the number of Templars who merely played at being lawyers, or were lawyers only in name, was actually as well as relatively greater than the merely *nominal* lawyers of the Temple at the present time. For several generations, and for two centuries, after Sir John Fortescue wrote the "De Laudibus," the Inns-of-Court man was more busied in learning to sing than in learning to argue a law cause, more desirous to fence with the sword than to fence with logic.

"Notwithstanding," runs Mulcaster's translation of the 'De Laudibus,'* "the same lawes are taught and learned, in a certaine place of publique or common studie, more convenient and apt for attayninge to the knowledge of them, than any other university. For theyr place of studie is situate nigh to the Kinges Courts, where the same lawes are pleaded and argued, and judgements by the same given by judges, men of gravitie, auncient in yeares, perfit and graduate in the same lawes. Wherefore, euerie day in court, the students in those lawes resorte by great numbers into those courts wherein the same lawes are read and taught, as it were in common schooles. This place of studie is far betweene the place of the said courts and the cittie of London, which of all thinges necessarie is the plentifullest of all cities and townes of the realme. So that the said place of studie is not situate within the cittie, where the confluence of people might disturb the quietnes of the studentes, but somewhat severall in the suburbes of the same cittie, and nigher to the saide courts, that the studentes may dayelye at their pleasure have accesse and recourse thither

* This charming book was written during the author's exile, which began in 1463.

without weariness." The perfect tranquillity of the law-colleges, when they stood in the green fields, skirted by their own whispering groves, and withdrawn from the hum of the busy town, is in pleasant contrast with the almost unintermittent tumult which now-a-days tries the nerves of their residents.

Setting forth the condition and pursuits of law-students in his day, Sir John Fortescue continues: "For in these greater innes, there can no student bee mayntayned for lesse expenses by the yeare then twentye markes. And if hee have a servaunt to wait uppon him, as most of them have, then so much the greater will his charges bee. Nowe, by reason of this charge, the children onely of noblemenne doo studye the lawes in those innes. For the poore and common sorte of the people are not able to beare so great charges for the exhibytion of theyr chyldren. And Marchaunt menne can seldome finde in theyr heartes to hynder theyr merchaundise with so greate yearly expenses. And thus it falleth out that there is scant anye man founde within the realme skilfull and cunning in the lawes, except he be a gentleman borne, and come of a noble stocke. Wherefore they more than any other kinde of men have a speciall regarde to their nobility, and to the preservation of their honor and fame. And to speake upryghtlye, there is in these greater innes, yea, and in the lesser to, beside the studie of the lawes, as it were an university or schoole of al commendable qualities requisite for noble men. There they learn to sing, and to exercise themselves in all kinde of harmonye. There also they practise daunsing, and other noblemen's pastimes, as they use to doo, which are brought up in the king's house. On the working dayes, the most of them apply themselves to the studye of the lawe, and on the holye dayes to the studye of holy Scripture;* and out of the tyme of divine service, to the reading of Chronicles. For there indeede are vertues studied, and vices exiled. So that, for the endowment of vertue, and abandoning of vice, Knights and Barrons, with other states and noblemen of the realme, place their chil-

* This passage is one of several passages in Pre-reformation English literature which certify that the Bible was much more widely and carefully read by lettered and studious laymen, in times prior to the rupture between England and Rome, than many persons are aware, and some violent writers like to acknowledge.

dren in those innes, though they desire not to have them learned in the lawes, nor to liue by the practise thereof, but onely uppon their father's allowance. Scant at anye tyme is there heard among them any sedition, chyding, or grudging, and yet the offenders are punished with none other payne, but onely to bee amooved from the companye of their felowshippe. Which punishment they doo more feare then other criminall offendours doo feare imprisonment and yrons: For hee that is once expelled from anye of those felowshippes is never received to bee a felowe in any of the other felowshippes. And so by this means there is continuall peace; and their demeanour is lyke the behauiour of such as are coupled together in perfect amytie. But after what manner and sort the lawes are learned in those innes, thereof heare to make rehearsall, it is not needfull, forasmuch as it is not for your estat, most noble prince, to put the same in use. Yet knowe ye this, that it is pleasant and delectable, and in anie wise expedient, for the learning of the law, and worthy with all affection to be embraced. But one thing there is, that I would have you to know, that neither at Orleance, where as well the canon as the civil lawes are taught, and whether out of many countries, scholars do repaire, nor at Angeo, or at Cane, or at any university of France (Paris onely excepted) are founde so many studentes paste childehoode, as in this place of studie, notwithstanding that all the students there are English borne."

Any person familiar with the Inns of Court at the present time will see how closely the law-colleges of Victoria's London resemble in many important particulars the law-colleges of Fortescue's period. After the fashion of four centuries since young men are still induced to enter them for the sake of honourable companionship, good society, and social prestige, rather than for the sake of legal education. In accordance with the temper of modern society, the colleges have relinquished their patrician exclusiveness, but whilst they still number amongst their members a considerable body of young men of gentle birth and golden prospects, they remain societies in which rude and unlettered men find but few congenial associates. After the remarks already made with regard to musical lawyers in a previous section of this work, it is needless to say

that Inns of Court men are not remarkable for their application to vocal harmony; but the younger members, of whom Arthur Pendennis may be regarded as a type, are still remarkable for the zeal with which they endeavour to master the accomplishments which distinguish men of fashion and tone. If the nominal (sometimes they are called "ornamental") barristers of the fifteenth century liked to read the Holy Scriptures, the young lawyers of the nineteenth century are no less disposed to read their Bibles critically, and argue as to the merits of Bishop Colenso and his opponents. Moreover, the discipline described by Fortescue is still found sufficient to maintain order in the inns.

Writing more than a century after Fortescue, Sir John Ferne, in his "Blazon of Gentrie, the Glory of Generosity, and the Lacy's Nobility," observes: "Nobleness of blood, joyned with virtue, compteth the person as most meet to the enterprize of any public service; and for that cause it was not for nought that our antient governors in this land, did with a special foresight and wisdom provide, that none should be admitted into the Houses of Court, being seminaries sending forth men apt to the government of justice, except he were a gentleman of blood. And that this may seem a truth, I my self have seen a kalendar of all those which were together in the society of one of the same houses, about the last year of King Henry the Fifth, with the armes of their House and Family marshalled by their names; and I assure you, the self same monument doth both approve them all to be gentlemen of perfect descents, and also the number of them much less than now it is, being at that time in one house scarcely three score."*

This passage, from an author who delighted to magnify the advantages of generous descent, has contributed to the very general and erroneous impression that until comparatively recent times the members of the English bar were necessarily drawn from the highest ranks of society; and several excellent

* Pathetically deploring the change wrought by time Ferne also observes of the Inns of Court,—"Pity to see the same places, through the malignity of the times, and the negligence of those which should have had care to the same, been altered quite from their first institution."

writers on the antiquities of the law have laid aside their customary caution and strengthened Ferne's words with inaccurate comment. Thus Pearce says of the author of the "Glory of Generositie"—"He was one of the advocates for excluding from the Inns of Court all who were not 'a gentleman by blood,' according to the ancient rule mentioned by Fortescue, which seems to have been disregarded in Elizabeth's time." Fortescue nowhere mentions any such rule, but attributes the aristocratic character of the law-colleges to the high costs of membership. Far from implying that men of mean extraction were excluded by an express prohibition, his words justify the inference that no such rule existed in his time; for when he observes that "the children onely of noble* menne doo studye the lawes in those innes," he is careful to account for the fact by saying, "*for* the common sorte of the people are not able to beare so great charges for the exhibition of their children." Whence it appears that the commonalty were excluded by the action of pecuniary regulations, and not by any direct edict.

Though Inns-of-Court men were for many generations gentlemen by birth almost without a single exception, it yet remains to be proved that plebeian birth at any period disqualified persons for admission to the law-colleges. If such a restriction ever existed it had disappeared before the close of the fifteenth century—a period not favourable to the views of those who were most anxious to remove the barriers placed by feudal society between the gentle and the vulgar. Sir John More (the father of the famous Sir Thomas) was a Judge in the King's Bench, although his parentage was obscure; and it is worthy of notice that he was a successful lawyer of Fortescue's period. Lord Chancellor Audley was not entitled to bear arms by birth, but was merely the son of a prosperous yeoman. The lowliness of his extraction cannot have been any serious impediment to him, for before the end of his thirty-sixth year he was a serjeant. In the following century the inns received a steadily increasing number of students, who either lacked generous lineage or were the offspring of shameful love. For instance, Chief Justice Wray's birth was scandalous; and if Lord

* Fortescue's "noble" means "gentle."

Ellesmere in his youth reflected with pride on the dignity of his father, Sir Richard Egerton, he had reason to blush for his mother. Ferne's lament over the loss of heraldic virtue and splendour, which the inns had sustained in his time, testifies to the presence of a considerable plebeian element amongst the members of the law-university. But that which was marked in the sixteenth was far more apparent in the seventeenth century. Scroggs's enemies were wrong in stigmatizing him as a butcher's son, for the odious chief justice was born and bred a gentleman, and Jeffreys could boast a decent extraction; but there is abundance of evidence that throughout the reigns of the Stuarts the inns swarmed with low-born adventurers. The career of Chief Justice Saunders,* who, beginning as a "poor beggar

* Roger North's memoir of Saunders is so characteristic of the times in which they both lived, and is moreover such a piquant illustration of legal life in Charles II.'s London, that it should be perused by every reader. "The Lord Chief Justice Saunders," says the biographer of Lord Guildford, "succeeded in the room of Pemberton. His character, and his beginning, were equally strange. He was at first no better than a poor beggar boy, if not a parish foundling, without known parents or relations. He had found a way to live by obsequiousness (in Clement's Inn, as I remember) and courting the attorney's clerks for scraps. The extraordinary observance and diligence of the boy made the society willing to do him good. He appeared very ambitious to learn to write; and one of the attornies got a board knocked up at a window on the top of a staircase; and that was his desk, where he sat and wrote after copies of court and other hands the clerks gave him. He made himself so expert a writer that he took in business, and earned some pence by hackney-writing. And thus by degrees he pushed his faculties, and fell to forms, and, by books that were lent him, became an exquisite entering clerk; and, by the same course of improvement of himself, an able counsel, first in pleading, then at large. And, after he was called to the bar, had practice, in the King's Bench Court, equal with any there. As to his person, he was very corpulent and beastly; a mere lump of morbid flesh. He used to say 'by his troggs' (such a humorous way of talking he affected) 'none could say he wanted issue of his body, for he had nine in his back.' He was a fetid mass, that offended his neighbours at the bar in the sharpest degree. Those, whose ill-fortune it was to stand near him, were confessors, and in summer-time, almost martyrs. This hateful decay of his carcase came upon him by continual sottishness; for, to say nothing of brandy, he was seldom without a pot of ale at his nose, or near him. That exercise was all he used; the rest of his life was sitting at his desk, or piping at home; and that home was a taylor's house in Butcher Row, called his lodging, and the man's wife was his nurse, or worse; but, by virtue of his money, of which he made little account, though he got a great deal, he soon became master of the family; and, being no changeling, he never removed, but was true to his friends, and they to him to the last hour of his life.

"So much for his person and education. As for his parts, none had them more

boy," of unknown parentage, raised himself to the Chiefship of the King's Bench, shows how low an origin a judge might have in the seventeenth century. To mention the names of such men as Parker, King, Yorke, Ryder, and the Scotts without placing beside them the names of such men as Henley, Harcourt, Bathurst, Talbot, Murray, and Erskine would tend to create an erroneous impression that in the eighteenth century the bar ceased to comprise amongst its industrious members a large aristocratic element.

The number of barristers, however, who in that period brought themselves by talent and honourable perseverance into the foremost rank of the legal profession in spite of humble birth, unquestionably shows that ambitious men from the obscure

lively than he. Wit and repartee, in an affected rusticity, were natural to him. He was ever ready, and never at a loss; and none came so near him as he to be a match for Serjeant Maynard. His great dexterity was in the art of special pleading, and he would lay snares that often caught his superiors who were not aware of his traps. And he was so fond of success for his clients, that, rather than fail, he would set the court hard with a trick; for which he met sometimes with a reprimand, which he would wittily ward off, so that no one was much offended with him. But Hale could not bear his irregularity of life; and for that, and suspicion of his tricks, used to bear hard upon him in the court. But no ill usage from the bench was too hard for his hold of business, being such as scarce any could do but himself. With all this, he had a goodness of nature and disposition in so great a degree that he may deservedly be styled a philanthrope. He was a very Silenus to the boys, as, in this place, I may term the students of the law, to make them merry whenever they had a mind to it. He had nothing of rigid or austere in him. If any, near him, grumbled at his stench, he ever converted the complaint into content and laughing with the abundance of his wit. As to his ordinary dealing, he was as honest as the driven snow was white; and why not, having no regard for money, or desire to be rich? And, for goodnature and condescension, there was not his fellow. I have seen him for hours and half-hours together, before the court sat, stand at the bar, with an audience of students over against him, putting of cases, and debating so as suited their capacities, and encouraged their industry. And so in the Temple, he never moved without a parcel of youths hanging about him, and he merry and jesting with them.

"It will be readily conceived that this man was never cut out to be a presbyter, or anything that is severe and crabbed. In no time did he lean to faction, but did his business without offence to any. He put off officious talk of government or politicks, with jests, and so made wit a catholicon, or shield, to cover all his weak places and infirmities. When the court fell into a steady course of using the law against all kinds of offenders, this man was taken into the king's business; and had the part of drawing, and perusal of almost all indictments and informations that were then to be prosecuted, with the pleadings thereon if any were special; and he had the settling of the large pleadings in the *quo warranto* against London.

middle classes were more frequently than in any previous century found pushing their fortunes in Westminster Hall. Lord Macclesfield was the son of an attorney, whose parents were of lowly origin, and whose worldly means were even lower than their ancestral condition. Lord Chancellor King's father was a grocer and salter who carried on a retail business at Exeter. Philip Yorke was the son of a country attorney who could boast neither wealth nor gentle descent. Chief Justice Ryder was the son of a mercer whose shop stood in West Smithfield, and grandson of a dissenting minister, who, though be bore the name, is not known to have inherited the blood of the Yorkshire Ryders. Sir William Blackstone was the fourth son of a silkman and citizen of London. Lords Stowell and Eldon were the children of a provincial tradesman. The learned and good Sir Samuel Romilly's father was Peter Romilly, jeweller, of Frith Street, Soho. Such were the origins of some of the men who won the prizes of the law in comparatively recent times. The present century has produced an even greater number of barristers who have achieved eminence, and are able to say with honest pride that they are the *first* gentlemen mentioned in their pedigrees; and so thoroughly has the bar be-

His lordship (*i.e.*, Lord Guildford) had no sort of conversation with him, but in the way of business, and at the bar; but once, after he was in the king's business, he dined with his lordship, and no more. And there he showed another qualification he had acquired, and that was to play jigs upon a harpsichord; having taught himself with the opportunity of an old virginal of his landlady's; but in such a manner, not for defect but figure, as to see him were a jest. The king, observing him to be of a free disposition, loyal, friendly, and without greediness or guile, thought of him to be the Chief of the King's Bench at that nice time. And the ministry could not but approve of it. So great a weight was then at stake as could not be trusted to men of doubtful principles, or such as anything might tempt them to desert them. While he sat in the Court of King's Bench, he gave the rule to the general satisfaction of the lawyers. But his course of life was different from what it had been, his business incessant, and, withal, crabbed, and his diet and exercise changed, that the constitution of his body, or head rather, could not sustain it, and he fell into an apoplexy and palsy, which numbed his parts, and he never recovered the strength of them. He outlived the judgment in the *quo warranto*, but was not present otherwise than by sending his opinion by one of the judges to be for the king, who, at the pronouncing of the judgment, declared it to the court accordingly, which is frequently done in like cases." So greatly has the social atmosphere of the bar changed for the better since the time when, in consideration of cleverness and amiability of temper, the profession tolerated and even applauded this drunken, unwholesome little beast.

come an open profession, accessible to all persons* who have the means of gentlemen, that no barrister at the present time would have the bad taste or foolish hardihood to express openly his regret that the members of a liberal profession should no longer pay a hurtful attention to illiberal distinctions.

According to Fortescue, the law-students belonging at the same time to the Inns of Court and Chancery numbered *at least* one thousand eight hundred in the fifteenth century; and it may be fairly inferred from his words that their number considerably exceeded two thousand. To each of the ten Inns of Chancery the author of the "De Laudibus" assigns "an hundred students at the least, and to some of them a much greater number;" and he says that the least populous of the four Inns of Court contained "two hundred studentes or thereabouts." At the present time the number of barristers—together with Fellows of the College of Advocates, and certificated Special Pleaders and Conveyancers not at the bar—is shown by the Law List for 1866 to be but little more than 4800.† When, therefore, it is borne in mind how much the legal business of the entire nation has necessarily increased with the growth of our commercial prosperity and industrial enterprise, and when also it is remembered how many times the population of the country has doubled itself since the wars of the Roses, few persons will be of opinion that the legal profession, either by the number of its practitioners or its command of employment, is a more conspicuous and prosperous power at the present time than it

* It is not unusual now-a-days to see on the screened lists of students about to be called to the bar the names of gentlemen who have caused themselves to be described in the quasi-public lists as the sons of tradesmen. Some few years since a gentleman, who has already made his name known amongst juniors, was thus "screened" in the four halls as the son of a petty tradesman in an obscure quarter of London; and assuming that his conduct was due to self-respect and affectionate regard for his parent, it seemed to most observers that the young lawyer in thus frankly stating his lowly origin acted with spirit and dignity. It may be that years hence this highly-accomplished gentleman will, like Lord Tenterden and Lord St. Leonards (both of whom were the sons of honest but humble tradesmen), see his name placed upon the roll of England's hereditary noblesse.

† Of this number about 2500 reside in or near London and maintain some apparent connexion with the Inns of Court. Of the remainder, some reside in Scotland, some in Ireland, some in the English provinces, some in the colonies; whilst a large proportion, although their names are still on the Law List, have ceased to regard themselves as members of the legal profession.

was in the fifteenth century. Actually there has been a great increase in the number of lawyers and in the number of clients; but relatively to the wealth of the country and number of its population, lawyers are less numerous and briefs less plentiful than they were under the Plantagenets. This view, however, directly opposes an impression which has found favour with several observant and able writers of the present generation.

Ferne was by no means the only gentleman of Elizabethan London to deplore the rapid increase in the number of lawyers, and to regret the growing liberality which encouraged—or rather the national prosperity which enabled—men of inferior parentage to adopt the law as a profession. In his address on Mr. Clerke's elevation to the dignity of a serjeant, Lord Chancellor Hatton, echoing the common complaint concerning the degradation of the law through the swarms of plebeian students and practitioners, observed—"Let not the dignitie of the lawe be geven to men unmeete. And I do exhorte you all that are heare present not to call men to the barre or the benches that are so unmeete. I finde that there are now more at the barre in one house than there was in all the Innes of Court when I was a younge man." Notwithstanding the Chancellor's earnest statement of his personal recollection of the state of things when he was a young man, there is reason to think that he was quite in error in thinking that lawyers had increased so greatly in number. From a MS. in Lord Burleigh's collection, it appears that in 1586 the number of law-students, resident during term, was only 1703—a smaller number than that which Fortescue computed the entire population of the London law-students, at a time when civil war had cruelly diminished the number of men likely to join an aristocratic university. Sir Edward Coke estimated the roll of Elizabethan law-students at one thousand, half their number in Fortescue's time. Coke, however, confined his attention in this matter to the students of Inns of Court, and paid no attention to Inns of Chancery. Either Hatton greatly exaggerated the increase of the working legal profession; or in previous times the proportion of law-students who never became barristers greatly exceeded those who were ultimately called to the bar.

Something more than a hundred years later the old cry

against the low-born adventurers, who, to the injury of the public and the degradation of the law, were said to overwhelm counsellors and solicitors of superior tone and pedigree, was still frequently heard in the coteries of disappointed candidates for employment in Westminster Hall, and on the lips of men whose hopes of achieving social distinction were likely to be frustrated if plebeian learning and energy were permitted to have free action. In his "History of Hertfordshire" (published in 1700), Sir Henry Chauncy, Serjeant-at-Law, exclaims: "But now these mechanicks, ambitious of rule and government, often educate their sons in these seminaries of law, whereby they overstock the profession, and so make it contemptible; whilst the gentry, not sensible of the mischief they draw upon themselves, but also upon the nation, prefer them in their business before their own children, whom they bereave of their employment formerly designed for their support; qualifying their servants by the profit of this profession to purchase their estates, and by this means make them their lords and masters, whilst they lessen the trade of the kingdom and cause a scarcity of husbandmen, workmen, artificers, and servants in the nation." Upon this outburst of spleen Mr. Foss, with good sense, remarks: "This tirade seems to be the querulous outpouring of an old lawyer, disappointed in practice. The learned complainer might have remembered many names during the previous centuries, which had been the boast of Westminster Hall, but which could not claim descent from the nobility, or even from those whom he would call gentry. To go back no farther than the reign of Henry VIII., where would Cardinal Wolsey, Sir John and Sir Thomas More, or Thomas Cromwell have been, had this system of exclusion prevailed? And in subsequent reigns the bench, by the adoption of such a principle, must have been deprived of the services of Wray, Rastall, Banks, T. Raymond, W. Wilde, Christopher Milton, and many others, and even of Sir Matthew Hale and Lord Somers. In the increase of population, in the advance of civilization, and still more in the accumulation and diffusion of riches, to circumscribe any profession, whether of law, or of physic, or of divinity, within the limits of a class would have been as absurd to attempt, as it would have been impossible to effect."

That the Inns of Court became less and less aristocratic

throughout the seventeenth and eighteenth centuries there is no reason to doubt; but it may be questioned whether it was so overstocked with competent working members as poor Sir Henry Chauncy imagined it. Describing the state of the inns some two generations later, Blackstone computed the number of law-students at about a thousand, perhaps slightly more; and he observes that in his time the merely *nominal* law-students were comparatively few. "Wherefore," he says, "few gentlemen now resort to the Inns of Court but such for whom the knowledge of practice is absolutely necessary; such, I mean, as are intended for the profession; the rest of our gentry (not to say our nobility also) having usually retired to their estates, or visited foreign kingdoms, or entered upon public life, without any instruction in the laws of the land, and indeed with hardly any opportunity of gaining instruction, unless it can be afforded to them in the universities."

The folly of those who lamented that men of plebeian rank were allowed to adopt the legal profession as a means of livelihood was however exceeded by the folly of men of another sort, who endeavoured to hide the humble extraction of eminent lawyers under the ingenious falsehoods of fictitious pedigrees. In the last century, no sooner had a lawyer of humble birth risen to distinction, than he was pestered by fabricators of false genealogies, who implored him to accept their silly romances about his ancestry. In most cases these ridiculous applicants hoped to receive money for their counsel and dishonest representations; but not seldom it happened that they were actuated by a sincere desire to protect the heraldic honour of the law from the aspersions of those who maintained that a man might fight his way to the woolsack although his father had been a tender of swine. Sometimes these imaginative chroniclers, not content with fabricating a genealogical chart for a *parvenu* Lord Chancellor, insisted that he should permit them to write their lives in such a fashion that their earlier experiences should seem to be in harmony with their later fortunes. Thus Lord Macclesfield (the son of a poor and ill-descended country attorney) was traced by officious adulators to Reginald Le Parker, who accompanied Edward I., while Prince of Wales, to the Holy Land; and Lawrence Eusden—

a poet-laureate whose memory is embalmed in the "Dunciad"—attributing to Tom Parker, formerly of Leek, in Staffordshire, as brilliant a career at Cambridge as that which he had run in Chancery, wrote—

> "Prophetic Granta, with a mother's joy,
> Saw greatness omen'd in the manly boy,
> Who mad'st her studies thy belov'd concern,
> Nor could she teach so fast as thou could'st learn.
> Still absent, thee our groves and muses mourn,
> Still sighing echoes the sad sound return;
> And Cam, with tears, supplies his streaming urn."

The entry of Parker's name occurs once on the books of Trinity College, but beyond the fact of his admission to that college nothing is known of the university career of "the manly boy," whose absence was thus passionately bewailed. In like manner a manufacturer of genealogies traced Lord Eldon to Sir Michael Scott of Balwearie.

> "—— the wondrous Michael Scott,
> A wizard of such dreadful fame,
> That when in Salamanca's cave
> Him listed his magic wand to wave,
> The bells would ring in Notre Dame."

When one of this servile school of worshippers approached Lord Thurlow with an assurance that he was of kin with Cromwell's secretary Thurloe, the Chancellor, with bluff honesty, responded, "Sir, as Mr. Secretary Thurloe was, like myself, a Suffolk man, you have an excuse for your mistake. In the seventeenth century two Thurlows, who were in no way related to each other, flourished in Suffolk. One was Cromwell's secretary Thurloe, the other was Thurlow, the Suffolk carrier. I am descended from the carrier." Notwithstanding Lord Thurlow's frequent and consistent disavowals of pretension to any heraldic pedigree, his collateral descendants are credited in the "Peerages" with a descent from an ancient family.

CHAPTER LX.

LAW-FRENCH AND LAW-LATIN.

FOR many generations the study of Law-Latin, and of still more barbarous Law-French, exacted much time and perseverance from every young Inns-of-Court man who was bent on qualifying himself for practice in Westminster Hall.

No circumstances of the Norman Conquest more forcibly illustrate the humiliation of the conquered people than the measures by which the invaders imposed their language on the public courts of the country, and endeavoured to make it permanently usurp the place of the mother-tongue of the despised multitude; and no fact more signally displays our conservative temper than the general reluctance of English society to relinquish the use of the French words and phrases which still tincture the language of parliament and the procedures of Westminster Hall, recalling to our minds the insolent domination of a few powerful families who occupied our country by force, and ruled our forefathers with vigorous injustice.

Frenchmen by birth, education, sympathy, William's barons did their utmost to make England a new France; and for several generations the descendants of the successful invaders were no less eager to abolish every usage which could remind the vanquished race of their lost supremacy. Not content with the possession of her soil, from which they extracted vast wealth, and of her people, whom they reduced to pliant vassals or wretched slaves, the Norman aristocracy required the destruction of England's language and traditions. French became the language of parliament and the council-chamber. It was spoken by the judges who dispensed justice in the name of a French king, and by the lawyers who followed the royal

court in the train of the French-speaking judges. In the hunting-field and the lists no gentleman entitled to bear coat-armour deigned to utter a word of English: it was the same in Fives' Court and at the gambling-table. Schoolmasters were ordered to teach their pupils to construe from Latin into French, instead of into English; and young men of Anglo-Saxon extraction, bent on rising in the world by native talent and Norman patronage, laboured to acquire the language of the ruling class and forget the accents of their ancestors. The language and usages of modern England abound with traces of the French of this period. To every act that obtained the royal assent during last session of parliament, the queen said "La reyne le veult." Every bill which is sent up from the Commons to the Lords, an officer of the lower house endorses "Soit bailé aux Seigneurs;" and no bill is ever sent down from the Lords to the Commons until a corresponding officer of the upper house has written on its back, "Soit bailé aux Communes." With still more comical fidelity to precedents, on the meeting of every new parliament the peers appoint triers and receivers of petitions for Gascony, the appointment of the said triers and receivers being regularly entered in Norman-French in the archives of the house. Thus, under date Aug. 24, 1841, appears in the "Lords' Journal" the following entry:—"Les Recevours des Petitions de Gascoigne et des autres terres et pays de par la mer et des isles.

"Le Baron Abinger, Chief Baron de l'Exchequer de la Reyne.

"Messire James Parke, Chevalier.

"Messire John Edmund Dowdeswell, Ecuyer.

"Et ceux qui veulent delivre leur Petitions les baillent dedans six jours prochainement ensuivant.

"Les Triours des Petitions de Gascoigne et des autres terres et pays de par la mer et des isles.

"Le Duc de Somerset.

"Le Marquis d'Anglesey.

"Le Count de Tankerville.

"Le Viscount Torrington.

"Le Baron Campbell.

"Tout eux ensemble, ou quatre des seigneurs avant-ditz,

appellant aut eux les serjeants de la Reyne, quant sera besoigne, tiendront leur place en la chambre du Chambellan."*

In like manner our parochial usages, local sports, and domestic games continually remind us of the obstinate tenacity with which the Anglo-Saxon race has preserved, and still preserves, the vestiges of its ancient subjection to a foreign yoke. The crier of a country town, in any of England's fertile provinces, never proclaims the loss of a yeoman's sporting-dog, the auction of a bankrupt dealer's stock-in-trade, or the impounding of a strayed cow, until he has commanded, in Norman-French, the attention of the sleepy rustics, who would be strangely puzzled were they told that the crier's "O yes! O yes!" was French, and that John Bull, in times past—something further past than the days of Billy Pitt and old Boney—had bowed his stubborn head to the frog-eaters. The language of the stable and the kennel is rich in traces of Norman influence; and in backgammon, as played by orthodox players, we have a suggestive memorial of those Norman nobles, of whom Fortescue,† in the 'De Laudibus' observes: "Neither had they delyght to hunt, and to exercise other sportes and pastimes, as dyce-play and the hand-ball, but in their own proper tongue."

In behalf of the Norman *noblesse* it should be borne in mind that their policy in this matter was less intentionally vexatious and insolent than it has appeared to superficial observers. For

* *Vide* Campbell's "Lives of the Chancellors," vol. i. 221, 4th ed.

† Fortescue's remarks on Law-Latin and Law-French deserve especial attention:—"In the universities of England, quod the chancelour, sciences are not taught but in the Latine tongue; and the lawes of that land are to be learned in three severall tongues—to wit, in the English tongue, the French tongue, and the Latine tongue. In the English tongue, because that lawe is most used and longest continued amongest the Englishmen. In the French tongue, because that after the Frenchmen, under William the Conquerour of England, had obteined the land, they suffred not their men of law to plead their causes, but in the tongue which they knew, and so do all the men of law in Fraunce, yea in the court of parliament there. Likewise the Frenchmen, after their comming into England, received not the accompts of their revenues but in their owne language, least they should be deceived therein. Neither had they delyght to hunt, and to exercise other sportes and pastimes—as dyce, dyce-play, and the hand-ball—but in their owne proper tongue. Wherefore, the Englishmen, by much using of their company, grew in such a perfectnesse of the same language, that at thys day in such playes and accomptes they use the French tongue. And they were wont to plead in French, till by force of a certaine statute that matter

its object it had the personal convenience of the conquerors, rather than the degradation of the conquered. It was scarcely to be expected—scarcely even to be wished—that the barons and persons of condition surrounding them should permit the proceedings in courts of justice to be carried on in a language of which they were totally ignorant. In the great majority of causes the suitors were Frenchmen; and it was just as reasonable that they should like to understand the arguments of their counsel and judges, as it is reasonable for suitors in the present day to require the proceedings in Westminster Hall to be clothed in the language most familiar to the majority of persons seeking justice in its courts. If the use of French pleadings was hard on the one Anglo-Saxon suitor who demanded justice in Henry I.'s time, the use of English pleadings would have been equally annoying to the nine French gentlemen who appeared for the same purpose in the king's court. In like manner the French nobles, feeling the inconveniences of a state of things in which the aristocracy spoke one tongue and the people another, naturally preferred to throw on the inferior race the trouble of learning a new language. It was greatly to be desired that the two races should have one common language; and common sense ordained that the tongue of the one or the other race should be adopted as the national language. Which side therefore was to be at the pains to

was much restrayned. But it could never hitherto be wholly abolyshed, as well by reason of certayne termes which pleaders do more properly expresse in French then in Englyshe, as also for that declarations upon originall writs cannot be pronounced so agreeably to the nature of those writtes as in French; and under the same speeche the fourmes of such declarations are learned. Moreover, all pleadings, arguings, and judgments passed in the kinge's court, and entered into bookes for the instruction of them that shall come after, are ever more reported in the French tongue. Many statutes also of that realm are written in French. Whereof it happeneth that the common speech now used in Fraunce agreeth not, nor is not lyke the French used amonge the lawyers of Englannde, but it is by a certein rudenesse of the common people corrupt. Which corruption of speech chanceth not in the French that is used in Englannde, for so much as the speech is there oftener written than spoken. Now, in the third of the said three tongues, which is the Latine tongue, are written all writs originall and judiciall, and likewise all the Recordes of plees in the Kinge's Courtes with certaine statutes also. Wherefore, while the lawes of Englannde are learned in these three tongues, they cannot conveniently bee taught or studied in the universityes, where onlye the Latine tongue is exercised."—Fortescue's *De Laudibus*, cap. 48.

learn a new tongue? Should the conquerors labour to acquire Anglo-Saxon? or should the conquered be required to learn French? In these days the cultivated Englishmen who hold India by military force, even as the Norman invaders held England, by the right of might, settle a similar question by taking upon themselves the trouble of learning as much of the Asiatic dialects as is necessary for purposes of business. But the Norman barons were not cultivated; and for many generations ignorance was with them an affair of pride no less than of constitutional inclination. Indolence, *hauteur*, and inability to learn a new language, either by letters or by sounds, forbade them to turn scholars; and therefore they decided to use all the means in their power to lure and drive the sharpest wits of the conquered people to learn and speak the foreign speech. Schoolmasters were incited to teach their scholars French, and Latin through French.

Soon ambitious Englishmen acquired the new language, in order to use it as an instrument for personal advancement. The Saxon stripling who could keep accounts in Norman fashion, and speak French as fluently as his mother tongue, might hope to sell his knowledge in a good market. As the steward of a Norman baron he might negotiate between my lord and my lord's tenants, letting my lord know as much of his tenants' wishes, and revealing to the tenants as much of their lord's intentions, as it suited his purpose. Uniting in his own person the powers of interpreter, arbitrator, and steward he possessed enviable opportunities and facilities for acquiring wealth. Not seldom when he had grown rich, or whilst his fortunes were in the ascendant, he assumed a French name as well as a French accent; and having persuaded himself and his younger neighbours that he was a Frenchman, he in some cases bequeathed to his children an ample estate and a Norman pedigree. In certain causes in the law courts the agent (by whatever title known) who was a perfect master of the three languages (French, Latin, and English) had greatly the advantage over an opposing agent who could speak only French and Latin. In this respect the lawyers who practise in the local States' Courts of the Channel Isles closely resemble the

lawyers of the Anglo-Norman period who were frequently required to act for English clients to whom French was as unknown as Greek, and for French clients who could not understand a single word of English.

From the Conquest till the latter half of the fourteenth century the pleadings in courts of justice were in Norman-French; but in the 36 Ed. III.—when this use of French no longer served its original purpose—it was ordained by the king "that all plees, which be to be pleded in any of his courts, before any of his justices; or in his other places; or before any of his other ministers; or in the courts and places of any other lords within the realm, shall be pleded, shewed, and defended, answered, debated, and judged in the English tongue, and that they be entred and enrolled in Latine. And that the laws and customs of the same realm, termes, and processes, be holden and kept as they be, and have been before this time; and that by the antient termes and forms of the declarations no man be prejudiced; so that the matter of the action be fully shewed in the demonstration and in the writ." Long before this wise measure of reform was obtained by the urgent wishes of the nation, the Anglo-Saxon tongue had triumphed over the machinations of those who in remote generations laboured for its suppression; and the Norman aristocracy had taken to their lips the language, and to their hearts the blood, of the conquered race. But even had the nobles still spoken the dialect of Normandy, they would have been equally anxious for the change effected by Edward III.; for the French of the law courts had become so corrupt and unlike the language of the invaders, that it was scarcely more intelligible to educated natives of France than to most Englishmen of the highest rank. A jargon compounded of French and Latin, none save professional lawyers could translate it with readiness or accuracy; and whilst it unquestionably kept suitors in ignorance of their own affairs, there is reason to believe that it often perplexed the most skilful of those official interpreters who were never weary of extolling its lucidity and precision.

But though English lawyers were thus expressly forbidden in 1362 to plead in Law-French, they persisted in using the hybrid jargon for reports and treatises so late as George II.'s

reign; and for an equal length of time they seized every occasion to introduce scraps of Law-French into their speeches at the bars of the different courts. Throughout the seventeenth century, and for fifty years later, Westminster Hall contained a succession of old black-letter lawyers whose special power was their faculty of making speeches which, though they did not actually violate the letter of Edward III.'s law, were so larded with Norman words and phrases that they were quite beyond the comprehension of lay auditors. It should be observed that these antiquarian advocates were enabled thus to display their useless erudition by the provisions of King Edward's act, which, while it forbade French *pleadings*, specially ordained the retention of French terms.

Roger North's essay "On the Study of the Laws" contains amusing testimony to the affection with which the lawyers of his day regarded their Law-French, and also shows how largely it was used till the close of the seventeenth century by the orators of Westminster Hall. "Here I must stay to observe," says the author, enthusiastically, "the necessity of a student's early application to learn the old Law-French, for these books, and most others of considerable authority, are delivered in it. Some may think that because the Law-French is no better than the old Norman corrupted, and now a deformed hotch-potch of the English and Latin mixed together, it is not fit for a polite spark to foul himself with; but this nicety is so desperate a mistake, that lawyer and Law-French are coincident; one will not stand without the other."* So enamoured was he of

* A note must present to the reader the remainder of Roger North's eulogy of Law-French. "All the ancient books," he continues, "that are necessary to be read and understood, are in that dialect, and the law itself is not in its native dress, nor is, in truth, the same thing in English. During the English times, as they are called, when the Rump abolished Latin and French, divers books were translated, as the great work of Coke's Reports, &c.; but upon the revival of the law, these all died, and are now but waste paper. Even the modern reports mostly are in French, and, as I said, all the ancient as well as divers tracts—as Fitzherbert's *Natura Brevium*, Staunford's *Pleas of the Crown*, Crompton's *Jurisdiction of Courts*, &c.—are only to be had in French; and will any man pretend to be a lawyer without it, when that language should be as familiar to him as his mother tongue? Now, it is not the least use of these initiatory books that they are to be read in French, for thereby a student, with his slow steps, gains ground in the language as well as in the law, and by that time as he shall be capable to understand other books he will be

the grace and excellence of law-reporters' French, that he regarded it as a delightful study for a man of fashion, and maintained that no barrister would do justice to the law and the interests of his clients who did not season his sentences with Norman verbiage. "The law," he held, "is scarcely expressible properly in English, and, when it is done, it must be *Françoise*, or very uncouth."

Edward III.'s measure prohibitory of French pleadings had therefore comparatively little influence on the educational course of law-students. The published reports of trials, known by the name of Year-Books, were composed in French, until the series terminated in the time of Henry VIII.; and so late

capable to read them; therefore, I should absolutely interdict reading Littleton, &c., in any other than French, and, however it is translated, and the English concolumned with it, it should be used only as subsidiary, to give light to the French where it is obscure, and not as a text. For really the law is scarce expressible properly in English, and when it is done it must be *Françoise*, or very uncouth. All moots and exercises, nay, many practices of the law, must be in French, at the bar, of the courts of justice; as when assizes or appeals are arraigned, the array—that is, pannels of juries challenged or excepted to—it must be done in French; so courts, bars, and such transactions as reach no further than the bench and counsel, with the officers, and not to the country (as trial by jury), or to the Lay Gents (as we call our clients), in motions and arguments of their suits, which they are concerned to understand, are to be done in Law-French; also replications at the Common Pleas bar in real actions; and this is the meaning of those scraps of French so frequently heard in the courts, which to explain is not the business here, but it is enough to show how necessary for a lawyer to be as ready as possible at his French; and how he must blush to be discovered incompetent. It is a language so religiously embraced by all good lawyers, that it is the custom for such to write their notes, or reports taken at the bar, as the shortest, and it is in reality the most apt way for expressing the law, and that a little experience will show. . . . . At first gentlemen have a horrid aversion to French, and think it desperate hard to learn; but if the former, that is, the aversion, be conquered by resolution, the other will be found a mistake, for such as have a preparation of Latin, and a moderate comprehension of modern French, soon master it. Few need more than a fortnight's application for enabling them to read fluently and correctly; but, in a word, whether sooner or later, it is necessary and must be done. A man may be a wrangler, but never a lawyer, without a knowledge of the authentic books of the law in their genuine language. One great discouragement here is the multitude of abbreviations which makes Law-French to the eye appear as difficult as if it were Arabick, but this is because the particles and monosyllables, which frequently occur, are so abbreviated. But a small list of them, set down with a pen as they are found out, lying by, with a cast of the eye, readily helps, and in a few hours' time the memory receives and supplies all. It was the way of all writing, before printing, to abridge the labour of the pen, and the first printing followed the way of the manuscripts, which in those times was as familiar and easy as our alphabet."

as George II.'s reign, Chief Baron Comyn preferred such words as "chemin," "dismes," and "baron and feme," to such words as "highways," "tithes," "husband and wife." More liberal than the majority of his legal brethren, even as his enlightenment with regard to public affairs exceeded that of ordinary politicians of his time, Sir Edward Coke wrote his commentaries in English, but when he published them, he felt it right to soothe the alarm of lawyers, by assuring them that his departure from ancient usage could have no disastrous consequences. "I cannot conjecture," he apologetically observes in his preface, "that the general communicating these laws in the English tongue can work any inconvenience."

So long as the appointed teachers of law and the veterans of the bar persisted in using Law-French, the students and junior barristers were compelled to acquire a certain measure of familiarity with the artificial tongue. Some of the primary text-books of legal lore had been rendered into English, and some most valuable treatises had been written and published in the mother tongue of the country; but in the seventeenth century no Inns-of-Court man could acquire an adequate acquaintance with the usages and rules of our courts and the decisions of past judges, until he was able to study the Year-Books and read Littleton in the original. To acquire this singular language—a *dead* tongue that cannot be said to have ever lived—was the first object of the law-student. He worked at it in his chamber, and with faltering and uncertain accents essayed to speak it at the periodic mootings in which he was required to take part before he could be called to the bar, and also after he had become an utter-barrister. In his 'Autobiography,' Sir Simonds D'Ewes makes mention in several places of his Law-French exercises (*temp.* James I.), and in one place of his personal story he observes, "I had twice mooted in Law-French before I was called to the bar, and several times after I was made an utter-barrister, in our open hall. Thrice also before I was of the bar, I argued the reader's cases at the Inns of Chancery publicly, and six times afterwards. And then also, being an utter-barrister, I had twice argued our Middle-Temple reader's case at the cupboard, and sat nine times in our hall at the bench, and argued such cases in English as had before

been argued by young gentlemen or utter-barristers in Law-French bareheaded."

Amongst the excellent changes by which the more enlightened of the Commonwealth lawyers sought to lessen the public clamour for law-reform was the resolution that all legal records should be kept, and all writs composed, in the language of the country. Hitherto the law records had been kept in a Latin that was quite as barbarous as the French used by the reporters; and the determination to abolish a custom which served only to obscure the operations of justice and to confound the illiterate was hailed by the more intelligent purchasers of law as a notable step in the right direction. But the reform was by no means acceptable to the majority of the bar, who did not hesitate to stigmatize the measure as a dangerous innovation—which would prove injurious to learned lawyers and peace-loving citizens, although it might possibly serve the purposes of ignorant counsel and litigious "lay gents."* The legal literature of three generations following Charles I.'s execution abounds with contemptuous allusions to the "English times" of Cromwell; the old-fashioned reporters, hugging their Norman-French and looking with suspicion on popular intelligence, were vehement in expressing their contempt for the prevalent misuse of the mother tongue. "I have," observes Styles, in the preface to his reports, "made these reports speak English; not that I believe they will be thereby more generally useful, for I have always been and yet am of opinion, that that part of the Common Law which is in the English hath only occasioned the making of unquiet spirits contentiously knowing, and more apt to offend others than to defend themselves; but I have done it in obedience to authority, and to stop the mouths of such of this English age, who, though they be confessedly different in their minds and judgments, as the builders of Babel were in their language, yet do think it vain, if not impious, to speak or understand more than their own mother tongue." In like manner, Whitelock's uncle Bulstrode, the celebrated reporter, says of the second part of his reports, "that he had many years since perfected the words in French, in

* In the seventeenth century, lawyers usually called their clients and the non-legal public "Lay Gents."

which language he had desired it might have seen the light, being most proper for it, and most convenient for the professors of the law."

The restorers who raised Charles II. to his father's throne, lost no time in recalling Latin to the records and writs; and so gladly did the reporters and the practising counsel avail themselves of the reaction in favour of discarded usages, that more Law-French was written and talked in Westminster Hall during the time of the restored king, than had been penned and spoken throughout the first fifty years of the seventeenth century.

The vexatious and indescribably absurd use of Law-Latin in records, writs, and written pleadings, was finally put an end to by statute 4 George II. c. 26; but this bill which discarded, for legal processes, a cumbrous and harsh language, that was alike unmusical and inexact, and would have been utterly unintelligible to a Roman gentleman of the Augustan period, did not become law without much opposition from some of the authorities of Westminster Hall. Lord Raymond, Chief Justice of the King's Bench, spoke in accordance with opinions that had many supporters on the bench and at the bar, when he expressed his warm disapprobation of the proposed measure, and sarcastically observed "that if the bill passed, the law might likewise be translated into Welsh, since many in Wales understood not English." In the same spirit Sir William Blackstone, and more recent authorities, have lamented the loss of Law-Latin.* Lord Campbell in the 'Chancellors,' records that he "heard the late Lord Ellenborough from the bench regret the change, on the ground that it had had the tendency to make attorneys illiterate."

* Noticing the *legal* opposition to stat. 4 Geo. II. c. 26, Mr. Foss observes:—"This valuable improvement was not generally acceptable to the old lawyers, and Sir James Burrow, in the preface to his Reports, thus records his objections:—'A statute,' he says, 'now took place for converting them (common-law pleadings) from a fixed dead language to a fluctuating *living* one; and for altering the strong, solid compact hand (calculated to last for ages), wherein they used to be written, into a species of hand-writing so weak, flimsy, and diffuse, that (in consequence and corruption of this statute, though undoubtedly contrary to its intention) many a modern record will hardly outlive its writer, and few perhaps will survive much above a century."

The sneer by which Lord Raymond endeavoured to cast discredit on the proposal to abolish Law-Latin, was recalled after the lapse of many years by Serjeant Heywood, who forthwith acted upon it as though it originated in serious thought. Whilst acting as Chief Justice of the Carmarthen Circuit, the Serjeant was presiding over a trial of murder, when it was discovered that neither the prisoner, nor any member of the jury, could understand a word of English; under these circumstances it was suggested that the evidence and the charge should be explained *verbatim* to the prisoner and his twelve triers by an interpreter. To this reasonable petition that the testimony should be presented in a Welsh dress, the judge replied that, "to accede to the request would be to repeal the act of parliament; which required that all proceedings in courts of justice should be in the English tongue, and that the case of a trial in Wales, in which the prisoner and jury should not understand English, was a case not provided for, although the attention of the legislature had been called to it by that great judge Lord Raymond." The judge having thus decided, the inquiry proceeded—without the help of an interpreter—the counsel for the prosecution favouring the jury with an eloquent harangue, no single sentence of which was intelligible to them; a series of witnesses proving to English auditors, beyond reach of doubt, that the prisoner had deliberately murdered his wife; and finally the judge instructing the jury in language which was as significant to their minds as the same quantity of obsolete Law-French would have been, that it was their duty to return a verdict of "Guilty." Throwing themselves into the humour of the business the Welsh jurymen, although they were quite familiar with the facts of the case, acquitted the murderer, much to the encouragement of many wretched Welsh husbands anxious for a termination of their matrimonial sufferings.

CHAPTER LXI.

WILD OATS.

FROM statements made in previous chapters, it may be seen that in ancient times the Law University was a far more conspicuous feature of the metropolis than it has been in more modern generations. In the fifteenth century the law-students of the town numbered about two thousand; in Elizabethan London their number fluctuated between one thousand and two thousand; towards the close of Charles II.'s reign* they were probably much less than fifteen hundred; in the middle of the eighteenth century they do not seem to have much exceeded one thousand. Thus at a time when the entire population of the capital was considerably less than the population of a third-rate provincial town of modern England, the Inns of Court and Chancery contained more under-graduates than would be found on the books of the Oxford Colleges at the present time. To appreciate the great influence of the Law University in the fifteenth and sixteenth centuries, it must be borne in mind that the gownsmen (judges, serjeants, ancients, readers, apprentices, and students being comprised by this term) maintained to the townsmen almost as large a proportion as the gownsmen of Oxford or Cambridge maintain at the present time to the townsmen of those learned places.

Henry VII.'s London looked to the University for mirth,

* At this period the number of students who were called to the bar was very small in comparison with the number of idle students who merely kept terms for amusement. Men had grown so reluctant to adopt the bar as a serious profession, that the annual number of calls to the bar cannot have been much more than thirty. In Dugdale's time the Middle Temple supplied about twelve new utter-barristers every two years. Speaking of the calls to the bar in his time at that inn, Dugdale says—"Once at the least, every two years, a dozen or more, are by a general call preferred to this degree."

news, trade. During vacations there was but little stir in the taverns and shops of Fleet Street; haberdashers and vintners sate idle; musicians starved; and the streets of the capital were comparatively empty when the students had withdrawn to spend their holidays in the country.* As soon as the gentlemen of the robe returned to town all was brisk and merry again. As the town grew in extent and population, the social influence of the university gradually decreased; but in Elizabethan London the *éclat* of the inns was at its brightest, and during the reigns of Elizabeth's two nearest successors London submitted to the Inns-of-Court men as arbiters of all matters pertaining to taste—copying their dress, slang, amusements, and vices. The same may be said, with less emphasis, of Charles II.'s London. Under the "Merry Monarch" theatrical managers were especially anxious to please the inns, for they knew that no play would succeed which the lawyers had resolved to damn,—that no actor could achieve popularity if the gallants of the Temple combined to laugh him down,—that no company of performers could retain public favour when they had lost the countenance of law-colleges. Something of this power the young lawyers retained beyond the middle of the last century. Fielding and Addison caught with nervous eagerness the critical gossip of the Temple and Chancery Lane, just as Congreve and Wycherley, Dryden and Cowley had caught it in previous generations. Fashionable tradesmen and caterers for the amusement of the public, made their engagements and speculations with reference to the opening of term. New plays, new books, new toys were never offered for the first time to London purchasers when the lawyers were

* It should be observed that a considerable number of the students used to reside during vacation. Thus, in 1586, when the entire number of students was 1703, no less than 642 kept up for the holidays. In the same year, the students at the four Inns of Court numbered 956, and of them 409 "kept up." Consequently, the law university was never quite deserted; but there is abundant evidence that in olden days the lawyers' vacation was a period of stagnation with the town. In Elizabethan London, Gray's Inn was by far the most popular and splendid of the inns, and counted on its roll 356 students, whilst the other Inns had only 200 students each. It should be borne in mind that Coke, in computing the number of Elizabethan law-students at about a thousand, seems to have omitted from his calculation the students of Inns of Chancery.

away. All that the "season" is to modern London, the "term" was to old London, from the accession of Henry VIII. to the death of George II., and many of the existing commercial and fashionable arrangements of a London "season" may be traced to the old-world "term."

In olden time the influence of the law-colleges was as great upon politics as upon fashion. Sheltering members of every powerful family in the country they were centres of political agitation, and places for the secret discussion of public affairs. Whatever plot was in course of incubation, the inns invariably harboured persons who were cognisant of the conspiracy. When faction decided on open rebellion or hidden treason, the agents of the malcontent leaders gathered together in the inns, where, so long as they did not rouse the suspicions of the authorities and maintained the bearing of studious men, they could hire assassins, plan risings, hold interviews with fellow-conspirators, and nurse their nefarious projects into achievement. At periods of danger therefore spies were set to watch the gates of the hostels, and mark who entered them. Governments took great pains to ascertain the secret life of the collegians. A succession of royal directions for the discipline of the inns under the Tudors and Stuarts points to the jealousy and constant apprehensions with which the sovereigns of England long regarded those convenient lurking-places for restless spirits and dangerous adversaries. Just as the Student-quarter of Paris is still watched by a vigilant police, so the Inns of Court were closely watched by the agents of Wolsey and Thomas Cromwell, of Burleigh and Buckingham. During the troubles and contentions of Elizabeth's reign Lord Burleigh was regularly informed concerning the life of the inns, the number of students in and out of town, the parentage and demeanour of new members, the gossip of the halls, and the rumours of the cloisters. In proportion as the political temper and action of the lawyers were deemed matters of high importance, their political indiscretions and misdemeanours were promptly and sometimes ferociously punished. An idle joke over a pot of wine sometimes cost a witty barrister his social rank and his ears. To promote a wholesome fear of authority in the colleges, government every now and then flogged a student at the cart's tail in

Holborn, or pilloried a sad apprentice of the law in Chancery Lane, or hung an ancient on a gibbet at the entrance of his inn.*

The anecdote-books abound with good stories that illustrate the political excitability of the inns in past times, and the energy with which ministers were wont to repress the first manifestations of insubordination. Rushworth records the adventure of four young men of Lincoln's Inn who threw aside prudence and sobriety in a tavern hard-by their inn, and drank to "the confusion of the Archbishop of Canterbury." The next day, full of penitence and head-ache, the offenders were brought before the council, and called to account for their scandalous conduct; when they would have fared ill, had not the Earl of Dorset done them good service, and privately instructed them to say in their defence, that they had not drunk confusion to the archbishop but to the archbishop's *foes*. On this ingenious representation, the council supposed that the drawer—on whose information the proceedings were taken—had failed to catch the last word of the toast; and consequently the young gentlemen were dismissed with a "light admonition," much to their own surprise and the informer's chagrin.

Of the political explosiveness of the inns in Charles II.'s time Narcissus Luttrell gives the following illustration in his diary, under date June 15 and 16, 1681:—"The 15th was a project sett on foot in Grayes Inn for the carrying on an addresse for thankes to his majestie for his late declaration; and was moved that day in the hall by some at dinner, and being (as is usual) sent to the barre messe to be by them recommended to the bench, but was rejected both by bench and barr; but the other side seeing they could doe no good this way, they gott about forty together and went to the tavern, and there subscribed the said addresse in the name of the truelye loyall gentle-

* "On Tuesday, 27th of October, 1685, Richard Neltrope of Gray's Inn, and John Ayloff of the Temple, were brought from Newgate to the King's Bench barr, where, being asked what they had to say why execution should not be awarded against them, they standing attainted by outlawry for treason, for conspiring the death of the late king, &c., they only sayd they knew not of the indictment, as I was told. The court gave a rule to execute them on Friday, 30th October, which was done accordingly, Neltrope being hanged before Gray's Inn gate, and Ayloff before the Inner Temple gate."—Vide *Autobiography of Sir John Bramston.*

men of Grayes Inn. The chief sticklers for the said addition were Sir William Scroggs, Jun., Robert Fairebeard, Capt. Stowe, Capt. Radcliffe, one Yalden, with others, to the number of 40 or thereabouts; many of them sharpers about town, with clerks not out of their time, and young men newly come from the university. And some of them went the 17th to Windsor, and presented the said addresse to his majesty; who was pleasd to give them his thanks and confer (it is said) knighthood on the said Mr. Fairebeard; this proves a mistake since. The 16th was much such another addresse carried on in the Middle Temple, where several Templars, meeting about one or two that afternoon in the hall for that purpose, they began to debate it, but they were opposed till the hall began to fill; and then the addressers called for Mr. Montague to take the chaire; on which a poll was demanded, but the addressers refused it, and carried Mr. Montague and sett him in the chaire, and the other part pulled him out, on which high words grew, and some blows were given; but the addressers seeing they could doe no good with it in the hall, adjourned to the Divill Tavern, and there signed the addresse; the other party kept in the hall, and fell to protesting against such illegall and arbitrary proceedings, subscribing their names to a farr greater number than the addressers were, and presented the same to the bench as a grievance."

Like the King's Head Tavern, which stood in Chancery Lane, the Devil Tavern, in Fleet Street, was a favourite house with the Caroline lawyers. Its proximity to the Temple secured the special patronage of the Templars, whereas the King's Head was more frequented by Lincoln's-Inn men; and in the tavern-haunting days of the seventeenth century those two places of entertainment saw many a wild and dissolute scene. Unlike Chattelin, who endeavoured to satisfy his guests with delicate repasts and light wines, the hosts of the Devil and the King's Head provided the more substantial fare of old England, and laid themselves out to please roisterers who liked pots of ale in the morning, and were wont to drink brandy by the pint as the clocks struck midnight. Nando's, the house where Thurlow in his student-period used to hold nightly disputations with all comers of suitable social rank, was an orderly place in comparison with these more venerable hostelries; and

though the Mitre, Cock, and Rainbow have witnessed a good deal of deep drinking, it may be questioned if they, or any other ancient taverns of the legal quarter, encouraged a more boisterous and reckless revelry than that which constituted the ordinary course of business at the King's Head and the Devil.

In his notes for Jan., 1681–2, Mr. Narcissus Luttrell observes—"The 13th, at night, some young gentlemen of the Temple went to the King's Head Tavern, Chancery Lane, committing strange outrages there, breaking windowes, &c., which the watch hearing of came to disperse them; but they sending for severall of the watermen with halberts that attend their comptroller of the revells, were engaged in a desperate riott, in which one of the watchmen was run into the body and lies very ill; but the watchmen secured one or two of the watermen." Eleven years later the diarist records: "Jan. 5. One Batsill, a young gentleman of the Temple, was committed to Newgate for wounding a captain at the Devill Tavern in Fleet Street on Saturday last." Such ebullitions of manly spirit—ebullitions pleasant enough to the humorist, but occasionally productive of very disagreeable and embarrassing consequences—were not uncommon in the neighbourhood of the Inns of Court whilst the Christmas revels were in progress.

A tempestuous, hot-blooded, irascible set were these gentlemen of the law-colleges, more zealous for their own honour than careful for the feelings of their neighbours. Alternately warring with sharp tongues, sharp pens, and sharp swords they went on losing their tempers, friends, and lives in the most gallant and picturesque manner imaginable. Here is a nice little row which occurred in the Middle Temple Hall during the days of good Queen Bess! "The records of the society," says Mr. Foss, "preserve an account of the expulsion of a member, which is rendered peculiarly interesting in consequence of the eminence to which the delinquent afterwards attained as a statesman, a poet, and a lawyer. Whilst the masters of the bench and other members of the society were sitting quietly at dinner on February 9, 1597–8, John Davies came into the hall with his hat on his head, and attended by two persons armed with swords, and going up to the barristers' table, where Richard Martin was sitting, he pulled out

from under his gown a cudgel 'quem vulgariter vocant a bastinado,' and struck him over the head repeatedly, and with so much violence that the bastinado was shivered into many pieces. Then retiring to the bottom of the hall, he drew one of his attendants' swords and flourished it over his head, turning his face towards Martin, and then turning away down the water steps of the Temple, threw himself into a boat. For this outrageous act he was immediately disbarred and expelled the house, and deprived for ever of all authority to speak or consult in law. After nearly four years' retirement, he petitioned the benchers for his restoration, which they accorded on October 30, 1601, upon his making a public submission in the hall, and asking pardon of Mr. Martin, who at once generously forgave him." Both the principals in this scandalous outbreak and subsequent reconciliation became honourably known in their profession—Martin rising to be a Recorder of London and a member of parliament; and Davies acting as Attorney General of Ireland and Speaker of the Irish parliament, and achieving such a status in politics and law that he was appointed to the Chief Justiceship of England, an office, however, which sudden death prevented him from filling.

Many of the stories about the private profligacy of eminent lawyers are apocryphal, and as many are unquestionably untrue. Amongst the latter the reader should place the following story that fixes the evil fame of Popham's youth on the early years of Chief Justice Holt. Spurious biography has recorded of Holt that at the outset of his career he was the companion of robbers, and himself used to take purses on the highway. Entering into particulars said biography ventures to say that when he had risen to be Chief Justice he presided at the trial of one of his old associates on a charge of robbery; that the prosecution closing with a verdict of "guilty," Holt sentenced his old friend to the gallows; and that subsequently asking the convict about the career of their former friends, he received for answer, "Ah! my lord, they are all hanged but myself and your lordship." In this absurd story it is easy to recognise a clumsy revival of the old calumny on Popham.

But though the more piquant *ana* concerning the old lawyers must be received with sceptical caution, ample evidence certifies the general idleness and moral abandonment of the Law Uni-

versity in the seventeenth century, with the exception of the brief period when the Cromwellian saints governed the country. The theatres and taverns, the fencing schools and dancing academies of the town, were the sources from which nine law-students out of every ten drew their supplies of fresh knowledge. In his boyhood, Chief Justice Hale was a brilliant "spark" in those scenes of dissipation where the youth of his time were taught to practise vice and to despise virtue. Testimony of a reliable kind satisfies inquirers that Pemberton (eventually Chief Justice of England) squandered a fine patrimony in hells and brothels whilst he wore a law-student's gown, and that he acquired in a debtors' gaol the knowledge which enabled him on his liberation to become a successful practitioner in Westminster Hall; to which success, by-the-bye, he would never have attained, had he not been rescued from the contaminating influences of an Inn of Court in Charles I.'s London by being committed to the purer and more invigorating air of the Fleet Prison. Commending his brother for shunning the pernicious allurements of dancing schools and fencing rooms, Lord Guildford's biographer shows with sufficient clearness that Francis North's contemporary students were very dissipated and thriftless youngsters.*

Nor must it be imagined that gay manners and lax morals

* "I never heard that he frequented either dancing or fencing schools; which two rendezvouses are very dangerous as well as expensive to young gentlemen; and that consideration outweighs all the pretended advantages that the female faction propose from those assemblies. And for security of future good consequences, and escaping the bad, I think it may be a general rule in the institution of a lawyer never to come to either; for since it is well known that the accidents of good or bad company determine, ordinarily, a young man to his happiness or ruin, and that the worst of company is to be met with there, one may bate the decorums of the step, or the skill of parry and thrust, in one who is to wear a long robe, and contend only with his oral faculty. I might say as much of places of game, but that entertainment is a gulph which swallows more elder than younger brothers, and more that have money gotten to their hands than such as have but enough to live in a way as may enable them to get more." Roger North had seen the fall and humiliation of many a Temple idler and Gray's Inn gallant before he wrote. "And that which was gay, and seemed a full provision for a youth—viz., a servant and perhaps a horse, with a few airs of dressing—comes far short of the pretensions even of the middle ages, which require settlement, plenty, and economy, and so in process the former becomes little better than a genteel vagabond, and at length ends in the dismal apprehension of being burthensome and fastidious everywhere, and in the no less horrid thought of being good for nothing, draws on some wretched and abject retirement."—Vide *On the Study of the Laws.*

were less general amongst the veterans than amongst the youngsters of the bar. Judges and serjeants were quite as prone to levity and godless riot as students about to be called; and such was the freedom permitted by professional decorum, that leading advocates habitually met their clients in taverns, and having talked themselves dry at the bars of Westminster Hall drank themselves speechless at the bars of Strand taverns —ere they reeled again into their chambers. The same habits of uproarious self-indulgence were in vogue with the benchers of the inns, and the doctors of Doctors' Commons. Hale's austerity was the exceptional demeanour of a pious man protesting against the wickedness of an impious age. Had it not been for the shortness of time that had elapsed since Algernon Sidney's trial and sentence, John Evelyn would have seen no reason for censuring the loud hilarity and drunkenness of Jeffreys and Withings at Mrs. Castle's wedding —with regard to which event he wrote in his diary: "1683. 5th December. I was this day invited to the wedding of one Mrs. Castle, to whom I had some obligation, and it was to her fifth husband, a lieutenant-colonel of the City. She was the daughter of one Burton, a broom-man, whom God so blessed that the father became very rich, and was a very honest man; he was sheriff of Surrey, where I have sate on the bench with him. Another of his daughters was married to Sir John Bowles; and this daughter was a very jolly, friendly woman. There was at the wedding the lord mayor, the sheriff, several aldermen and persons of quality; above all, Sir George Jeffreys, newly-made Lord Chief Justice of England, with Mr. Justice Withings, danced with the bride and were exceeding merry. These great men spent the rest of the afternoon, till eleven at night, in drinking healths, taking tobacco, and talking much beneath the gravity of judges, who had but a day or two before condemned Mr. Algernon Sydney, who was executed the 7th on Tower Hill, on the single witness of that monster of a man, Lord Howard of Escrick, and some sheets of paper taken in Mr. Sydney's study."

A passage in Pepys's Diary illustrates the jovial tavern habits of the most respectable advocates of Charles II.'s time—habits that were general in the legal profession from the days of

Elizabeth to the days of George III., and cannot be said to have altogether disappeared in the present day, which is not far removed from the time of Serjeant Wilkins. Alluding to an admiralty cause in which he was officially concerned, Pepys introduces the present generation to the three counsel for his side (viz., Sir Edward Turner, Sir W. Walker, and Sir Ellis Layton), the counsel on the other side (Sir Robert Wiseman), and the Judge of the Admiralty and Prerogative Court (Sir Leoline Jenkins); and then, under date March 27, 1667, observes—"To the Castle Taverne, by Exeter House; and there Sir Ellis Layton, whom I find a wonderfully witty, ready man for sudden answers and little tales, and sayings very extraordinary witty. He did give me a full account upon my demand of this Judge of the Admiralty, Judge Jenkins; who, he says, is a man never practised in this court, but taken merely for his merit and ability sake from Trinity Hall, where he had always lived; only by accident the business of the want of a judge being proposed, the Archbishop of Canterbury sent for him up; and here he is, against the *gré* and content of the old doctors, made judge, but is a very excellent man both for judgment and temper, yet majesty enough, and by all minor report, not to be corrupted. After dinner to the court, where Sir Ellis Layton did make a very silly motion in our behalf, but did neither hurt nor good. After him, Walker and Wiseman; and then the judge did pronounce his sentence; for some, a part of the goods and ship, and the freight of the whole, to be free, and returned and paid by us; and the remaining, which was the greater part, to be ours. The loss of so much troubles us; but we have got a pretty good part, thanks be to God." It should be observed that the sittings of the Admiralty Court were at that time held in Exeter House. When the court rose for dinner, Pepys and his party adjourned to the adjacent Castle Tavern for a jovial meal, at which repast Sir Ellis Layton seems to have made a more brilliant figure than he did a short time afterwards, when full of wine and meat he rose and made in court "the very silly motion" alluded to by the diarist.*

* Roger North's piquant sketch of that roistering *mauvais sujet*, Charles Porter, throws light upon the manners and morals of seventeenth-century lawyers. "His

Now that so much has been said about the demoralizing influences of a law-student's life in the sixteenth and seventeenth centuries, it should be remarked, on the other hand, that in some respects the social atmosphere of the inns was far more wholesome in the days of Elizabeth, and for the hundred years following her reign, than it is at present. Sprung in most cases from legal families, the students who were educated to be working members of the bar lived much more under the observation of their older relations, and in closer intercourse with their mothers and sisters, than they do at present. Now-a-days young Templars, fresh from the universities, would be uneasy and irritable under strict parental discipline; and as men with beards and five-and-twenty years' knowledge of the world, they would resent any attempt to draw them within the lines of domestic control. But in Elizabethan and also in Stuart London, law-students were considerably younger than they are under Victoria. At first sight the case may appear quite otherwise: for the period of pupilage was much longer in former times than at present. In Sir Edward Coke's youth

lordship," says Lord Guildford's biographer, "had one friend that used to frequent him much, and was greatly countenanced by him. It was Mr. Charles Porter, who, in the reign of King William, was made Lord Chancellor of Ireland, where he died. This person had run a strange course of variety in his life. He was the son of a prebend in Norwich, and a 'prentice boy in the city in the rebellious times. When the committee house was blown up, he was one that was very active in that rising, and, after the soldiers came and dispersed the rout, he, as a rat among joint-stools, shifted to and from among the shambles, and had forty pistols shot at him by the troopers that rode after him to kill him. In that distress he had the presence of mind to catch up a little child that during the rout was frighted, and stood crying in the streets, and, unobserved by the troopers, ran away with it. The people opened for him, saying, 'Make room for the poor child.' Thus he got off, and while search was made for him in the market-place and thereabouts, got into the Yarmouth ferry, and at Yarmouth took ship and went to Holland, there being an opportunity of a ship then going off; and he was scarce out at sea before the pursuit came down after him—so narrowly he escaped hanging at that time. In Holland he trailed a pike, and was in several actions as a common soldier. At length he kept a cavalier eating-house; but his customers being needy he soon broke and came for England, and being a genteel youth, was taken in among the chancery clerks, and got to be under a master, in which employment he laid a foundation for practice in that court, beginning with drawing; and afterwards he applied to the bar. His industry was great, and he had an acquired dexterity and skill in the forms of the court; and although he was a bon-companion and followed much the bottle, yet he made such dispatches as satisfied his clients, especially the clerks, who knew where to find him. His person was florid, and speech prompt and articulate. But his vices, in the way

the law-student had to keep terms for *eight* years; subsequently the period of tuition was reduced to *seven* years, and in Charles I.'s time, Heneage Finch—the silver-tongued "Father of Equity"—was in respect to his exceptional attainments, called to the bar, when his name had been on the books of the Inner Temple but little more than six years; whereas graduates of universities may now-a-days be called to the bar when they have kept terms for three years. It might be thought that, whilst the period of pupilage was so long, students were seldom called to the bar at the age when it is customary for barristers of our own time to assume the forensic wig. But biography justifies the opinion that the junior barristers of past times were as young in years as the junior barristers of to-day, and that the student freshmen of Stuart London were usually mere lads—sometimes mere children. For instance, Heneage Finch was called to the bar when he was just twenty-four years of age.

For practical purposes the old period of pupilage was soon

of women and the bottle, were so ungoverned as brought him to a morsel; and he did but just hold up his head, with all the advantages that fell to his share, which were very great, for when Lord Keeper North had the Seal, who, from an early acquaintance had a kindness for him, which was well known, and also that he was well heard, as they call it, business flowed in to him very fast, and yet he could scarce keep himself at liberty to follow his business. The best account of which strange conduct is, that he was careless and joined with others in taking up monies, and so carried on a jolly way of living. At the Revolution, when his interest fell from, and his debts began to fall upon him, he was at his wits' end. And some, knowing his case and pitying him (for at large he was indeed a very honest fellow), recommended him as a plausible fellow, fit to be Lord Chancellor of Ireland; and, accordingly he was knighted and sent over. There he lived some years, and in that place concluded his days little better than insolvent. It is not to be wondered at that this fair-conditioned gentleman of the Chancery order should be acceptable to his lordship; for, barring his private failings and no less secret debts, his character for fidelity, loyalty, and facetious conversation was without exception; and his lordship knew little of his secret ways to give him a disgust to his person, who also had the good fortune to be beloved by everybody. I have remembered thus much of a gentleman that underwent all extremity of good and evil fortune; whereof the particulars, that are not of my own knowledge, I had from his own mouth in very serious conversation. All which is worthy to be known, and the rather because he had that magnanimity and command of himself that no surprise or affliction, by arrests or otherwise, could be discerned either in his countenance or society; which is very exemplary, and in cases of the persecuting kind, as injustices and the malice of powers, heroical in perfection."

found to be far too long, and students were permitted to spend much of it at their own homes or at the universities, without even such an affectation of residence as is required in our own time from students who are keeping their terms concurrently at an university and an Inn of Court. Thus, "Francis Bacon began, in June, 1579, at the age of eighteen, to keep his terms" at Gray's Inn; but the records of the society attest that he was enrolled amongst its members on Nov. 21, 1576. Simonds D'Ewes was entered at a still earlier period on the books of the Middle Temple by a prudent father, who, as one of the six clerks of the Chancery, had good reason to know how desirable it was that his boy should spend as little time as possible in arguing moots and cases with law-students. When he came from Cambridge into residence amongst the Templars in 1620, he was only eighteen years of age, but was a student of nine years' standing. "I was also this year," he writes in his Autobiography, "upon the 2nd day of July, admitted a member of the Middle Temple, upon my coming to London, out of Suffolk, before my departure into the county of Dorset, so as when I came first into commons there, some nine years after in 1620, I was ancient to above two hundred of that society." This is an extreme instance of the prevailing practice; but though it was not usual for law-students to be children of tender years,* they were almost always mere ruddy striplings when they first ate dinners in hall. To keep terms simultaneously at Oxford or Cambridge and at an Inn of Court was a common custom with students from the student-days of Lord Bacon to those of Lord Somers, who in Charles II.'s reign kept concurrent terms at Trinity, Oxford, and the Middle Temple; and in more recent times this practice has become so general that a considerable proportion of the first-year's students of every Inn of Court are university undergraduates, preparing for their final examinations at Oxford or Cambridge.

* The practice of entering boys' names on the books of Inns of Court years before they were intended to reside in the said inn was frequent in the eighteenth century, as well as in older times. Charles Yorke was entered on the admission-book of the Middle Temple when he was only thirteen years of age. Between that date and the commencement of his devotion to legal study intervened his brilliant Cambridge career.

Moreover, the usage of the period trained young men to submit with cheerfulness to a parental discipline that would be deemed intolerable by our own youngsters. During their first terms of residence, until they could secure quarters within college walls, students frequently lodged in the houses or chambers of near relations who were established in the immediate vicinity of the inn. A judge with a house in Fleet Street, an eminent counsel with a family mansion in Holborn, or an office-holder with commodious chambers in Chancery Lane, usually numbered amongst the members of his family a son, or nephew, or cousin who was keeping terms for the bar. Thus placed under the immediate superintendence of an elder whom he regarded with affection and pride, and surrounded by the wholesome interests of a refined domestic circle, the raw student was preserved from much folly and ill-doing into which he would have fallen had he been thrown entirely on his own resources for amusement. Doubtless the presence of ladies in the law-quarter —ladies who daily promenaded in the gardens of the Temple and Gray's Inn, and who gave dances and musical parties in the adjacent streets—caused the lads to devote many an hour to flirtation that should have been expended on "Littleton" and moot points; but hours so spent are amongst the most profitable of a young man's days. Young Simonds D'Ewes* be-

* The boy's father lived in chambers in Chancery Lane with his wife and marriageable girls, and during a temporary absence from his official quarters lodged with them in the Strand. "By reason," writes D'Ewes in his Autobiography, "of my unfortunate residence still at the Clerks' Office, and want of a convenient study and chamber, I almost wholly lost my time by reason of my two elder sisters residing there, and their being daily visited or going to visit. Some little time of respite and freedom I enjoyed by my father's removing with them into the Strand to lodgings there taken upon the 16th of December, for about a month's space, where, though I left my Temple Commons and came to diet with them, yet, I lying still at his office, had my full freedom of privacy and study." In the November of 1621, young D'Ewes gained possession of his "chamber in the Middle Temple," consisting of half of one such compartment as in current phraseology would be called "a set of chambers." None but benchers were permitted to have an entire set. "For my private studies," writes the Templar, "I made some reasonable entrance into them this month; but residing yet in a gentleman's chamber in the Temple (where I had continued during my stay in London, ever since the 20th day of April last past), I was often hindered by him or company to visit him; and I saw plainly, also, that my stay with him was many ways inconvenient to his privacy. So growing weary of any further stay there, nor well knowing whither to betake myself, it pleased God, amidst my many

wailed the loss of time which the pleasant exactions of his sisters occasioned him; but the brightness and merry music of girls kept him from evil as well as from his law-books.

The pecuniary means of Inns-of-Court students have not varied much throughout the last twelve generations. In days when money was scarce and very precious they of course lived on a smaller number of coins than they require in these days

troubles, to afford me one great content by the attaining of the possession of my own chamber in the Middle Temple upon Thursday, Nov. 22, into which I was admitted in the year 1611, upon the decease of Richard Simonds, Esq., my mother's father, whose study I had, and my father's chamber, in which himself had resided, keeping there with my said grandfather, before he bought the Six Clerks' Office." But when he had established himself in his own quarters, young D'Ewes took every opportunity to have an evening's chat and laughter with his mother and sisters in Chancery Lane. "I found much comfort," he notes in one entry, "by the sight of both my parents and my four affectionate sisters, who were now all of them at my father's office with him in Chancery Lane." This pleasant intercourse was for a time interrupted by an accidental fire which consumed the quarters of the Six Clerks, and much valuable property belonging to Mr. D'Ewes the elder. This mishap was caused by an omission on the part of Mr. Tothill, the clerk who occupied the set of chambers next those inhabited by the D'Ewes family, and who "out of a little base niggardliness, neglected to mend the hearth of his chimney." Few facts connected with the life of the law-quarter at this period are more suggestive than the zeal with which lawyers plied their business on Sundays as well as the ordinary days of the week. With the exception of Mr. Henley, a newly-admitted clerk, who set his face against such an "atheistical profanation of God's own holyday," the Six Clerks used to sit "in their studies most part of the Sundays in the afternoon, to take their fees and do the office-business, many of their under-clerks following their profane example"!!! Several passages in "The Autobiography of Sir John Bramston, K.B.," show how thoroughly domestic was the chamber-life of Charles II.'s lawyers. Speaking of his nephew and son-in-law, Moundeford Bramston, son of Moundeford Bramston, a Master in Chancery, Sir John writes—"The eldest Moundeford married my youngest daughter, Elizabeth, without, nay, against my consent; yet I gave her 1100 pounds to her portion. . . . . He follows the lawe and is in good practice in chancerie. His father putt him too soon into business under him, so that he had not tyme to make any great progress in the studie, yet he takes paines, and I hope will in tyme have fruits of his labour." This lady—granddaughter of a Chief Justice of the King's Bench, daughter of a Knight of the Bath, and wife of a successful Chancery lawyer, to whom she had brought eleven hundred pounds (a fine portion for a girl of her rank in the seventeenth century)—was content to live in chambers. In a set of Chancery Lane chambers she gave birth to her children, and in the same residence she died. "On the 9th of December this year, 1689," records Sir John, "my youngest daughter, Elizabeth, died at a lodging her husband, Moundeford Bramston, had in Chancery lane. . . . . On Sunday, the 22nd January, 1693, Francis Bramston, second son of Moundeford Bramston, died at his father's lodgings in Chancery lane, a hopefull youth about fifteen years old."

when gold and silver are comparatively abundant and cheap; but it is reasonable to suppose that in every period the allowances on which the less affluent of them subsisted, represent the amounts on which young men of their respective times were just able to maintain the figure and style of independent gentlemen. The costly pageants and feasts of the inns in old days must not be taken as indicative of the pecuniary resources of the common run of students; for the splendour of those entertainments was mainly due to the munificence of those more wealthy members who by a liberal and even profuse expenditure purchased a right to control the diversions of the colleges. Fortescue, speaking of his own time, says: "There can no student bee mayntayned for lesse expenses by the yeare than twentye markes. And if hee haue a seruant to waite uppon him, as most of them haue, then so much the greater will his charges bee." Hence it appears that during the most patrician period of the law-university, when wealthy persons were accustomed to maintain ostentatious retinues of servants, a law-student often had no private personal attendant. An ordinance already quoted in these pages, shows that in Elizabethan London the Inns-of-Court men were waited upon by laundresses or bed-makers who served and took wages from several masters at the same time. It would be interesting to ascertain the exact time when the "laundress" was first introduced into the Temple. She certainly flourished in the days of Queen Bess; and Roger North's piquant description of his brother's laundress is applicable to many of her successors who are looking after their perquisites at the present date. "The housekeeper," says Roger, "had been formerly his lordship's laundress at the Temple, and knew well her master's brother so early as when he was at the writing-school. She *was a phthisical old woman, and could scarce crawl upstairs once a day.*" This general employment of servants who were common to several masters would alone prove that the Inns-of-Court men in the seventeenth century felt it convenient to husband their resources, and exercise economy. Throughout that century sixty pounds was deemed a sufficient income for a Temple student; and though it was a scant allowance, some young fellows managed to push on with a still more modest revenue. Simonds D'Ewes had 60*l.* per

annum during his student course, and 100*l.* a year on becoming an utter-barrister. "It pleased God also, in mercy," he writes, "after this to ease me of that continual want or short stipend I had for about five years last past groaned under; for my father immediately on my call to the bar, enlarged my former allowance with forty pounds more annually; so as, after this plentiful annuity of one hundred pounds was duly and quarterly paid me by him, I found myself easyd of so many cares and discontents as I may well account that the 27th day of June foregoing the first day of my outward happiness since the decease of my dearest mother." This passage shows what was a pinching stipend for a gentlemanlike student, and also what was a comfortable income for a young utter-barrister moving in good society. All things considered, a bachelor in James I.'s London with a clear income of 100*l.* per annum was on the whole as well off for his time as a young barrister of the present day would be with an annual allowance of 250*l.* or 300*l.* Francis North, when a student, was allowed only 60*l.* per annum; and as soon as he was called and began to earn a little money, his parsimonious father reduced the stipend by 10*l.*; but, adds Roger North, "to do right to his good father, he paid him that fifty pounds a year, as long as he lived, saying he would not discourage industry by rewarding it, when successful, with less." George Jeffreys, in his student-days, smarted under a still more galling penury, for he was allowed only 50*l.* a year, 10*l.* being for his clothes, and 40*l.* for the rest of his expenditure. In the following century the nominal incomes of law-students rose in proportion as the wealth of the country increased and the currency fell in value. In George II.'s time a young Templar expected his father to allow him 150*l.* a year, and on encouragement would spend twice that amount in the same time. Henry Fielding's allowance from General Fielding was 200*l.* per annum; but as he said, with a laugh, he had too feeling and dutiful a nature to press an affectionate father for money which he was totally unable to pay. At the present time 150*l.* per annum is about the smallest sum on which a law-student can live with outward decency; and 250*l.* per annum the lowest amount on which a chamber-barrister can live with suitable dignity and comfort. If he has to

maintain the expenses of a distant circuit Mr. Briefless requires from 100*l.* to 200*l.* more. Alas! how many of Mr. Briefless's meritorious and most ornamental kind are compelled to shift on far less ample means! How many of them periodically repeat the jest of poor A——, who made this brief and suggestive official return to the Income Tax Commissioners—"I am totally dependent on my father, who allows me—nothing!"

CHAPTER LXII.

READERS AND MOOTMEN.

ROMANTIC eulogists of the Inns of Court maintain that, as an instrument of education, the law-university was nearly perfect for many generations after its consolidation. That in modern time abuses have impaired its faculties and diminished its usefulness they admit. Some of them are candid enough to allow that, as a school for the systematic study of law, it is under existing circumstances a deplorably deficient machine; but they unite in declaring that there *was* a time when the system of the combined colleges was complete and thoroughly efficacious. The more cautious of these eulogists decline to state the exact limits of the period when the actual condition of the university merited their cordial approval, but they concur in pointing to the years between the accession of Henry VII. and the death of James I., as comprising the brightest days of its academical vigour and renown. Repeating the sentiment of many previous writers, Lord Campbell observes of Sir Thomas More's student days:—"Then the Inns of Court and Chancery presented the discipline of a well-constituted university; and through professors, under the name of 'Readers,' and exercises, under the name of 'Mootings,' law was systematically taught, and efficient tests of proficiency were applied, before the degree of barrister was conferred entitling the aspirant to practise as an advocate." With equal reason and confidence other annalists maintain that Coke lectured on "Fines," and Francis Bacon on "Uses," in mid-summer of this academic golden age; whilst there are those who point to Callis's Readings on "Sewers," as a proof that even to the close of James I.'s reign the scholastic efficiency of the inns was all that could be desired:

It is however worthy of observation that throughout the times when the legal learning and discipline of the colleges are described to have been admirable, the system and the students by no means won the approbation of those critical authorities who were best able to see their failings and merits. Wolsey was so strongly impressed by the faulty education of the barristers who practised before him, and more especially by their total ignorance of the principles of jurisprudence, that he prepared a plan for a new university which should be established in London, and should impart a liberal and exact knowledge of law. Had he lived to carry out his scheme, it is most probable that the Inns of Court and Chancery would have become subsidiary and subordinate establishments to the new foundation. In this matter, sympathizing with the more enlightened minds of his age, Sir Nicholas Bacon was no less desirous than the great cardinal that a new law-university should be planted in town, and he urged on Henry VIII.* the propriety of devoting a certain portion of the confiscated church property to the foundation and endowment of such an institution. Sir Nicholas Bacon's project contemplated the education of statesmen, ambassadors, and diplomatic agents as well as lawyers; but his wish to include the study of the law in the objects of his academy, is a sufficient proof that a really good law-school was still needed in London.

* Into the condition of the Law University in Henry VIII.'s time an insight may be gained from the return made to that king by Thomas Denton, Nicholas Bacon, and Robert Cary; in which report it is observed—"Utter-barristers are such that for their learning and countenance are called by the said readers to plead and argue in the said house doubtful cases and questions, which among them are called motes, at certain times propounded and brought in before that they, when they argue the said motes, sitt uttermost in the formes which they call the barr; and their degree is the chiefest degree for learners in the house, next the benchers; for of these be chosen and made the readers of all the Inns of Chancery, and also of the most ancient of these is one elected yearly to read amongst them, who after that reading is called a bencher or reader. All the residue of the learners are called inner-barristers, which are the youngest men, that for lack of learning and countenance are not able to argue or reason in motes; nevertheless, whensoever any of the said motes be brought in before any of the said benchers, then two of the said inner-barristers, sitting on the same forme with the utter-barristers, doe for their exercises recite by heart the pleadings of the moot-case in Law-French." In Elizabethan London, law-students were very usually styled inner-barristers; but the title of inner-barrister died out in the seventeenth century.

That the inns long constituted a fine school of manners, and by drawing into familiar brotherhood a large proportion of the best-descended, brightest, and most ambitious men of the country, discharged some of the highest functions of an university, is unquestionable; but there is reason to doubt the goodness of their educational system, even in the period of their most dazzling success.

On paper the scheme of the old exercises and degrees looks very imposing, and those who delight in painting fancy pictures may infer from them that the scholastic order of the colleges was perfect. Before a young man could be called to the bar, he had to spend eight years in arguing cases at the Inns of Chancery, in proving his knowledge of law and Law-French at moots, in sharpening his wits at case-putting, in patient study of the Year-Books, and in watching the trials of Westminster Hall. After his call he was required to spend another period in study and academic exercise before he presumed to raise his voice at the bar; and in his progress to the highest rank of his profession he was expected to labour in educating the students of his house as assistant-reader, single-reader, double-reader. The gravest lawyers of every inn were bound to aid in the task of teaching the mysteries of the law to the rising generation.

The old ordinances assumed that the law-student was thirsting for a knowledge of law, and that the veterans were no less eager to impart it. During term law was talked in hall at dinner and supper, and after those meals the collegians argued points. "The cases were put" after the earlier repast, and twice or thrice a week moots* were "brought in" after the

* The exercises "Case-Putting" and "Moots" are described with sufficient minuteness by Stow, D'Ewes, and Dugdale. "In these vacations," says Stow, describing the moots of the Inns of Chancery, "after supper in the hall, the reader, with one or two of the benchers, comes in, to whom one of the utter-barristers propounds some doubtful case, which being argued by the benchers, and, lastly, by him that moved the case, the benchers sit down on the bench at the upper end of the hall; and upon the form in the middle of the hall sit two utter-barristers; and on both sides of them, on the same form, sits one inner barrister, who in Law-French doth declare to the benchers some kind of action; the one being as it were retained for the plaintiff, and the other for the defendant; which ended, the two utter-barristers argue such cases as are disputable within the said case; after which the benchers do likewise declare their opinions as how they take the law to be in these

later meal. The students were also encouraged to assemble towards the close of each day, and practise "case-putting" in their gardens and in the cloisters of the Temple or Lincoln's Inn. The "great fire" of 1678-9 having destroyed the Temple Cloisters, some of the benchers proposed to erect chambers on the ground, to and fro upon which law-students had for generations walked whilst they wrangled aloud; but the Earl of Nottingham, recalling the days when young Heneage Finch used to put cases with his contemporary students, strangled the proposal at its birth, and Sir Christopher Wren subsequently built the "Cloisters" which may be seen at the present day.

But there is reason to fear that at a very early period in their history the Inns of Court began to pay more attention to

questions." Dugdale's descriptions of "case-putting" and "mooting" are not more perspicuous, but they are more minute and picturesque. "Cases were put" in at hall after dinner, the entire assembly taking part in the discussions and retaining their seats at table. "In the term-time," says Dugdale of case-putting in the Middle Temple, "the case is orderly kept every day after dinner, as well amongst the benchers as utter-barristers and students, the manner thereof being thus, viz.—One of the benchers (beginning commonly at the puisne, and so the rest in turn) puts a short case, consisting of two or three difficult questions of the law of his own invention. The case being put from one mess to another throughout the tables, they divide themselves by three in a company and so argue it; the party that framed the case being the last of the company that argues it; but all the rest argue according to their antiquity, beginning at the puisne. The like is done by a case put by one of the utter-barristers, which runs through the whole table, and is argued in like comparison as aforesaid; which kind of exercise doth both whet their wits and strengthen their memory." Of the moots in the same hall, Dugdale says:—"Immediately after supper the benchers assemble themselves in the bay-window at the upper end of the hall, where standing in order according to their antiquity, there repairs unto them two gentlemen under the bar whose turn it is to recite the pleadings. Who, after a low obeysance, demand whether it be their pleasure to hear a moot, and depart with an affirmative answer. . . . . All parties being ready, the two benchers appointed to argue, together with the reader elect, take their places at the bench-table, the ancient bencher sitting in the midst, the second on his right hand, and the reader elect on his left. Then the mootmen also take their place, sitting on a form close to the cup-board and opposite to the benchers; on the one side of them sits one of the students that recites the pleadings, and the other on the other side. The pleadings are first recited by the students, then the case is put and argued by the barristers, and lastly, by the reader elect and the benchers in manner aforesaid, who all three argue in English; but the pleadings are recited and the case argued by the utter-barristers in Law-French. The moot being ended, all parties return to the cup-board, where the mootmen present the benchers with a cup of beer and a slice of bread; and so the exercise for that night is ended."

certain outward forms of instruction than to instruction itself. The unbiassed inquirer is driven to suspect that "case-putting" soon became an idle ceremony, and "mooting" a mere idle pastime. Gentlemen ate heartily in the sixteenth and seventeenth centuries; and it is not easy to believe that immediately after a twelve o'clock dinner benchers were in the best possible mood to teach, or students in the fittest condition for learning. It is credible that these post-prandial exercitations were often enlivened by sparkling quips and droll occurrences; but it is less easy to believe that they were characterized by severe thought and logical exactness. So also with the after-supper exercises. The six o'clock suppers of the lawyers were no light repasts, but hearty meals of meat and bread, washed down by "*green pots*"* of ale and wine. When "the horn" sounded for supper, the student was in most cases better able to see the truth of knotty points than when in compliance with etiquette he bowed to the benchers, and asked if it was their pleasure to hear a moot. It seems probable that long before "case-puttings" and "mootings" were altogether disused, the old benchers were wont to wink mischievously at each other when they prepared to teach the boys, and that sometimes they would turn away from the proceedings of a moot with an air of disdain or indifference. The inquirer is not induced to rate more highly the intellectual effort of such exercises because the teachers refreshed their exhausted powers with bread and beer as soon as the arguments were closed.

When such men as Coke and Francis Bacon were the readers, the students were entertained with lectures of surpassing excellence; but it was seldom that such readers could be found. It seems also that at an early period men became readers, not because they had any especial aptitude for offices of instruction, or because they had some especial fund of in-

* In Dugdale's time "green pots" were the ordinary drinking vessels of the Inns of Court, but in Elizabeth's time the lawyers quaffed their ale from ashen bowls. "Until the second year of Q. Elizabeth," says Dugdale of the Inner Temple, "this society did use to drink in cups of ashen wood (such as are still used in the King's Court), but then those were laid aside, and green earthen pots introduced, which have ever since continued." Dinner was announced by a horn, instead of a bell. Dugdale says of the Middle Temple—"The panyer-man by the winding of his horn summons the gentlemen to dinner and supper."

formation—but simply because it was their turn to read. Routine placed them in the pulpit for a certain number of weeks; and when they had done all that routine required of them, and had qualified themselves for promotion to the rank of serjeant,* they took their seats amongst the benchers and ancients with the resolution not to trouble themselves again about the intellectual progress of the boys.

Soon also the chief teacher of an Inn of Court became its chief feaster and principal entertainer; and in like manner his subordinates in office, such as assistant readers and readers elect, were required to put their hands into their pockets, and feed their pupils with venison and wine as well as with law and equity. It is amusing to observe how little Dugdale has to say about the professional duties of readers—and how much about their hospitable functions and responsibilities. Philip and Mary ordered that no reader of the Middle Temple should give away more than fifteen bucks during his readings; but so greatly did the cost of readers' entertainments increase in the following century, that Dugdale observes—"But the times are altered; there being few summer readers who, in half the time that heretofore a reading was wont to continue, spent so little as threescore bucks, besides red deer; some have spent fourscore, some an hundred." In a previous section of this work notice has been taken of the lavish costliness of readers' feasts—a costliness that eventually led to their discontinuance.

Just as readers were required to spend more in hospitality, they were required to display less learning. Sound lawyers avoided election to the readers' chairs, leaving them to be filled by rich men who could afford to feast the nobility and gentry, or at least by men who were willing to purchase social *éclat* with a lavish outlay of money. Under Charles II. the "readings" were too often nothing better than scandalous

* In olden time counsel were not created serjeants unless they had been deemed worthy to be readers, and had actually *read*. In Charles II.'s time, however, it became usual to confer the coif on barristers who had not read. "Now," says Sir John Bramston, "since the restitution of the king, more are called to be serjeants that never read at all than that have read once. The reasons given were that there wanted serjeants, there was not tyme for the readings, and that manie had beene on the king's side in the war, and either wanted monie or were to be indulged."

exhibitions of mental incapacity: and having sunk into disrepute, they died out before the accession of James II.*

The scandalous and beastly disorder of the Grand Day Feasts at the Middle Temple, during Francis North's tenure of the reader's office, was one of the causes that led to the discontinuance of Readers' Banquets at that house; and the other inns gladly followed the example of the Middle Temple in putting an end to a custom which had ceased to promote the dignity of the law. Of this feast, and his brother's part in it, Roger North says: "He (*i.e.*, Francis North) sent out the officers with white staves (for so the way was) and a long list to invite; but he went himself to wait upon the Archbishop of Canterbury, Sheldon; for so also the ceremony required. The archbishop received him very honourably, and would not part with him at the stair's head, as usually had been done; but, telling him he was no ordinary reader, went down, and did

* Inquirers who would like to see how thoroughly ridiculous the "readings" became, before they were altogether discontinued, are referred to "The Reader's Speech of the Middle Temple. At the Entrance Into His Reading, Feby. 29, 166¾. Upon the Statute of Magna Charta. Cap. 29." This initiatory address opened thus—"May it please your masterships and gentlemen. Sensible am I of much uneasiness for this exercise. Arguments I have us'd many to their masterships that they would please to secure their own, and your honour, by a more pregnant choice. What prevailed not with their wisdoms to excuse, may it with your candour to interpret mildly. First, my memory is in disorder for want of use at the bar, whence I was excluded fourteen years. Next, my limbs are disjointed with the gowt, a distemper I contracted by the laziness of a long and close imprisonment. My estate hath been impaired by sequestration, decimation, and those other sufferings which deepest opprest members who withdrew to Oxford. Scandalized also I have been, and so was Jesus Christ, and so are many more, both great and good (because they are so). I have hopes as they, to conquer it by contempt: if not, by moderation, yet that's my crime. As for my ambition to be great, I assure you 'tis no less than my desert and hopes, and that's none at all. These considerations, as they are discouraged, so they inclined me now in age, when the clouds return after the rain, and the strong men bowe, to a retired life." It may not be imagined that the gouty cavalier who uttered this twaddle was singular in his absurdities. Something more feeble than the better orations of the same kind and time, it was a fair example of the inaugural speech of a new reader in Charles II.'s time. Dugdale particularly mentions the affectation of modesty with which readers were expected to veil their self-satisfaction. "This ended," says Dugdale, "the reader begins with a grave speech, excusing his own weakness, with desire of their favourable censures." The same authority also observes, "In answer whereof, the reader makes another grave oration, in his own excuse: magnifying the learned arguments of his assistants and cupboardmen, as also the good behaviour of the young gentlemen; with thanks to them all, for so patiently bearing with his infirmities."

not part till he saw him past at his outward gate. I cannot much commend the extravagance of the feasting used at these readings; and that of his lordship's was so terrible an example, that I think none hath ventured since to read publicly; but the exercise is turned into a revenue, and a composition is paid into the treasury of the society. Therefore one may say, as was said of Cleomenes, that, in this respect, his lordship was *ultimus heroum*, the last of the heroes. And the profusion of the best provisions, and wine, was to the worst of purposes—debauchery, disorder, tumult, and waste. I will give but one instance; upon the grand day, as it was called, a banquet was provided to be set upon the table, composed of pyramids, and smaller services in form. The first pyramid was at least four foot high, with stages one above another. The conveying this up to the table, through a crowd, that were in full purpose to overturn it, was no small work: but, with the friendly assistance of the gentlemen, it was set whole upon the table. But, after it was looked upon a little, all went, hand over hand, among the rout in the hall, and for the more part was trod under foot. The entertainment the nobility had out of this was, after they had tossed away the dishes, a view of the crowd in confusion, wallowing one over another, and contending for a dirty share of it." Such were the offensive and swinish scenes enacted in the Inns of Court in the seventeenth century.

It would, however, be unfair to the ancient exercises of "case-putting" and "mooting" not to bear in mind that by habituating successful barristers to take personal interest in the professional capabilities of students, and by encouraging students to look for personal instruction to the leaders of the bar, they helped to maintain a salutary intercourse betwixt the younger and older members of the profession. So long as "moots" lasted, it was the fashion with eminent counsel to accost students in Westminster Hall, and gossip with them about legal matters. The youngster who repeatedly showed cleverness and readiness in the ceremonial discussions of his inn was certain to attract the notice of some learned jurist, who was both able and willing to assist him in the labour of acquiring knowledge. In Charles II.'s time, such eminent

counsel as Sir Geoffrey Palmer daily gave practical hints and valuable suggestions to students who courted their favour; and accurate legal scholars, such as old "Index Waller," would, under judicious treatment, exhibit their learning to boys ambitious of following in their steps.* Chief Justice Saunders, during the days of his pre-eminence at the bar, never walked through Westminster Hall without a train of lads at his heels. "I have seen him," says Roger North, "for hours and half-hours together, before the court sat, stand at the bar, with an audience of students over against him, putting of cases, and debating so as suited their capacities, and encouraged their industry. And so in the Temple, he seldom moved without a parcel of youths hanging about him, and he merry and jesting with them."

Much of the parental condescension and care on the part of seniors towards the youngsters of the law may be fairly attributed to the ancient exercises; and long after "moots" had been abolished, their influence in this respect was visible in the readiness of wigged veterans to extend a kindly and useful patronage to students. Even so late as the close of last century, great black-letter lawyers used to accost students in Westminster Hall, and give them fair words, in a manner that would be misunderstood in the present day. Serjeant Hill†—whose reputation for recondite legal erudition resembled that of "*Index* Waller," or "Maynard," in the seventeenth century—once accosted John Scott, as the latter, in his student days, was crossing Westminster Hall. "Pray, young gentleman," said the black-letter lawyer, "do you think herbage and pannage rateable to the poor's rate?" "Sir," answered the future Lord Eldon, with a courteous bow to the lawyer, whom

* "It is a great advantage to have access to the company of judges or men in eminent practice, for such are commonly very condescending and friendly to young men who are out of all emulation with them, and they will be pleased to instil notions of law, and some are not better entertained than with putting cases to them and taking their answers, which given with judgment and modesty, is very engaging, and sometimes has created friendships that have been introductive into great preferments."—Roger North's *Discourse.*

† Just as the idlers of Westminster Hall called Waller "Serjeant Index," the irreverent youngsters of the legal profession a century later nicknamed Hill "Serjeant Labyrinth,"—in allusion to his want of perspicuity, and the verbal involutions with which he concealed the treasures of his erudition.

he knew only by sight, "I cannot presume to give any opinion, inexperienced and unlearned as I am, to a person of your great knowledge and high character in the profession." "Upon my word," replied the serjeant, eyeing the young man with unaffected delight, "you are a pretty sensible young gentleman; I don't often meet with such. If I had asked Mr. Burgess, a young man upon our circuit, the question, he would have told me that I was an old fool. You are an extraordinary sensible young gentleman." Serjeant Hill may be regarded as the last of the old Westminster Hall celebrities who retained a tincture of that urbane sociability and condescension to students, as a distinct "species" of the law, which almost invariably marked the leaders of the bar in old times.

The period when "readings," "mooting," and "case-putting" fell into disuse or contempt is known with sufficient accuracy. It was the Restoration period. Having noticed the decay of readings, Sir John Bramston writes, in Charles II.'s reign, "At this tyme readings are totally in all the Inns of Court layd aside; and to speak truth, with great reason, for it was a step at once to the dignity of a serjeant, but not soe now." From the last words it appears that Sir John regarded the old readings rather as ceremonies whereby barristers qualified themselves for the coif, than as sources of instruction to young learners. Marking the time when moots became farcical forms—Roger North having stated that his brother Francis, when a student, was "an attendant (as well as exerciser) at the ordinary moots in the Middle Temple and at New Inn," goes on to say, "In those days the moots were carefully performed, and it is hard to give a good reason (bad ones are prompt enough) why they are not so now." But it should be observed, that though for all practical purposes "moots" and "case-puttings" ceased in Charles II.'s time, they were not formally abolished. Indeed, they lingered on throughout the eighteenth century and to the present time—when vestiges of them may still be observed in the usages and discipline of the inns. Before the writer of this page was called to the bar by the Masters of the Society of Lincoln's Inn, he, like all other students of his time, had to go through the form of putting a case on certain days in the hall after dinner. The ceremony appeared

to him alike ludicrous and interesting. To put his case he was conducted by the steward of the inn to the top of the senior bar table, when the steward placed an open MS. book before him, and said, "Read that, sir;" whereupon this deponent read aloud something about "a femme sole," or some such thing, and was still reading the rest of the MS., kindly opened under his nose by the steward, when that worthy officer checked him suddenly, saying, "That will do, sir; you have *put* your case—and can sign the book." The book duly signed, this deponent bowed to the assembled barristers, and walked out of the hall, smiling as he thought how, by an ingenious fiction, he was credited with having put an elaborate case to a college of profound jurists, with having argued it before an attentive audience, and with having borne away the laurels of triumph. Recently this pleasant mockery of case-putting has been swept away; and students of Lincoln's Inn are now only required to go through a series of formal introductions to the benchers and barristers. They must still make a certain number of bows to the bar table, but they are no longer required to read words about a "femme sole," or any other such thing.

In Roger North's "Discourse on the Study of the Laws," and "Life of the Lord Keeper Guildford," the reader may see with clearness the course of an industrious law-student during the latter half of the seventeenth century; and it differs less from the ordinary career of an industrious Temple-student in our own time than many recent writers on the subject think.

Under Charles II., James II., and William III. the law-student was compelled to master the barbarous Law-French; but the books which he was required to read were few in comparison with those of a modern Inns-of-Court man. Roger North mentions between twenty and thirty authors* which the student should read in addition to Year-Books and more recent reports; and it is clear that the man who knew with any degree

* Another writer of the same period gives a similar picture of a perfect lawyer's library. "And here," says Mr. Phillips, "our student hath a catalogue of all or most of the books requisite for the study, which are about fifty in number, not very many nor great, most of them being but of small bulk or volumes, therefore not so great labour to read over, as may not be compassed in a considerable time." Sir William Dugdale's two catalogues of law-books will serve to show the uninformed reader how few volumes the old legal libraries contained.

of familiarity such a body of legal literature was a very erudite lawyer two hundred years since. But the student was advised to read this small library again and again, "common-placing" the contents of its volumes, and also "common-placing" all new legal facts. The utility and convenience of common-place books were more apparent two centuries since than in our own time when books of reference are always published with good tables of contents and alphabetical indexes. Roger North held that no man could become a good lawyer who did not keep a common-place book.* He instructs the student to buy for a common-place register "a good, large paper book, as big as a church bible;" he instructs him how to classify the facts which should be entered in the work; and for a model of a lucid and thoroughly lawyer-like common-place book he refers "to Lincoln's Inn library, where the Lord Hale's common-place book is conserved, and that may be a pattern, *instar omnium.*"

* "The next considerable article," says Roger North, "in our student's process is common-placing. It is so necessary, that without a wonderful, I might say, miraculous felicity of memory, three parts of reading in four shall be utterly lost to one that useth it not. Reading may form a capacity, create a judgement, and perhaps in time make the law pleasant as well as easy; but without common-placing, it will not obtain the useful part, that is, authority and resort to books."

LIBRARY OF THE BOMBAY BRANCH OF THE ROYAL ASIATIC SOCIETY

CHAPTER LXIII.

PUPILS IN CHAMBERS.

BUT the most important part of an industrious law-student's labours in olden time was the work of watching the practice of Westminster Hall. In the palmiest days of the Inns of Court, when they are presumed by their eulogists to have taught law soundly and liberally, the student was expected to "pick up" his knowledge of law by observing the trials in law-courts, and taking notes of them. In the present time lawyers acquire knowledge of their profession by the same means; and no better plan for gaining a certain useful and necessary kind of legal information has been discovered. At this date, however, the lawyer seldom spends much time in watching court-practice until he has been called;* whereas in old time the legal aspirant not only so employed his hours, betwixt the date of his call and the time when he obtained an abundance of practice, but whilst he was only entitled to wear a student's gown he daily during term entered Westminster Hall, and took notes of the trials in one or other of the courts. In the seventeenth century the constant succession of political trials made the King's Bench Court especially attractive to students who were more eager for gossip than advancement of learning; but it was always held that the student who was desirous to learn the law

* This remark is applicable only to quite recent years. The living veterans of the bar used to spend a considerable proportion of their student days in listening to trials, and taking notes of the proceedings in Westminster Hall. Campbell's personal reminiscences—the most valuable element of his legal biographies—contain numerous allusions to events that occurred, and scenes which he witnessed, whilst sitting in the students' box of the King's Bench, and other courts. "I happened," he says, Ch. J. III. 152, "to be sitting in the students' box in the Court of King's Bench on April 5, 1802, when a note announcing Lord Kenyon's death was put into the Attorney General's hand."

rather than to catch exciting news or hear exciting speeches, ought to frequent the Common Pleas, in which court the common law was said to be at home.* At the Common Pleas a student might find a seat vacant in the students' benches so late as ten o'clock; but it was not unusual for every place devoted to the accommodation of students in the Court of King's Bench to be occupied by six o'clock A.M. By dawn, and even before the sun had begun to break, students bent on getting good seats at the hearing of an important cause would assemble,

* Of course the regular publication of careful "reports" has in our own time relieved the student of the necessity of taking his own notes; but in past times, when reports were published irregularly and at wide intervals, the lawyer, who neglected to take notes of and to "common-place" the new trials, soon found himself behindhand in information, and could not readily command the means of rendering himself *au courant* with recent decisions. Consequently the advocate in good practice, as well as the student, found it advisable to post up his common-place book. In short, every lawyer was in a certain sense compelled to be his own reporter. With regard to note-taking by students, Roger North says—"Now it is usual after a year or two's residence in the Inns of Court, for all students to crowd for places in the King's Bench Court, when they are raw and scarce capable of observing anything materially, for that requires some competent knowledge, and the bad consequence is that it makes them pert and forward, and apt to press to the bar when they are not half-students, and that is the downfal of more young lawyers than all other errors and neglects whatever. For this reason I would not have any lose time from their studies after this manner until four or five years' study, and two years afore they come to the bar, which should not be before seven of study, is more than enough, especially when to get a place they must be very early, and idle about, or worse, till the court sits, and then with little more profit than such may expect that come only to hear news. Nay, it will be found for some years after calling to the bar their best employment will be that of sitting there and reporting, as I know full well, without more of refreshment than a motion or two in a term. This length of time in the approaches to practice must be endured; for what inconvenience is it when a man has once firmly dedicated his whole life to the law?" What say briefless barristers to this view of their position? The author continues: "Therefore my advice is, that a student shall bestow two years before he is called to the bar: the first at the Common Pleas and the last at King's Bench, and if any shall say the latter is not enough to learn the course of the court where he is to practise, I answer, that will be supplied after he is called to the bar, for his business for some years will not so overwhelm his time but he will have much lying on his hands for noting and observing the course of the court, for the law gathered is very inconsiderable while he attends at the bar in the quality of a practiser; and there is further reason to prefer attendance at the Common Pleas; it is not so crowded as the King's Bench is; a gentleman may come at ten in the morning and have a place, but there he may come at six and fail of a tolerable post to attend in, the difference of which, as to the well employment of your time, is notorious enough; if it be considered what three or four hours in a morning is in study, it will not be thought fit to throw away in idle attendance."

and patiently wait in court till the judges made their appearance.

One prominent feature of the advocate's education must always be elocutionary practice. "Talk; if you can, to the point, but anyhow talk," has been the motto of Advocacy from time immemorial. Heneage Finch, who, like every member of his silver-tongued family, was an authority on matters pertaining to eloquence, is said to have advised a young student "to study all the morning and talk all the afternoon." Serjeant Maynard used to express his opinion of the importance of eloquence to a lawyer by calling law the "ars bablativa." Roger North observes—"He whose trade is speaking must not, whatever comes out, fail to speak, for that is a fault in the main much worse than impertinence." And at a recent address to the students of the London University, Lord Brougham urged those of his auditors who intended to adopt the profession of the bar, to habituate themselves to talk about everything. Douglas Jerrold used to affirm seriously that any man might make himself a wit by persistent and well-directed pains; and the brilliant conversationalist, citing his own personal experiences as matter supporting his apparently paradoxical theory, would aver that originally he was the reverse of a ready speaker, and that before he became celebrated for his *mots*, he had to train himself to originate them at the right time instead of an hour too late. In conversational wit, of which Jerrold was a consummate master, promptitude and fineness of expression are qualities that practice may improve; and in like manner oratory has certain properties—such as fluency, dramatic intonation, finish—for which exercise may do much in the way of improvement.

In past times law-students were proverbial for their talkativeness; and though the present writer has never seen any records of a Carolinian law-debating society, it is matter of certainty that in the seventeenth century the young students and barristers formed themselves into coteries, or clubs, for the practice of elocution and for legal discussions. The continual debates on "mootable days," and the incessant wranglings of the Temple cloisters, encouraged them to pay especial attention to such exercises. In Charles II.'s reign "Pool's company"

was a coterie of students and young barristers, who used to meet periodically for congenial conversation and debate. "There is seldom a time," says Roger North, speaking of this coterie, "but in every Inn of Court there is a studious, sober company that are select to each other, and keep company at meals and refreshments. Such a company did Mr. Pool find out, whereof Serjeant Wild was one, and every one of them proved eminent, and most of them are now preferred in the law; and Mr. Pool, at the latter end of his life, took such a pride in his company that he affected to furnish his chambers with their pictures." Amongst the benefits to be derived from such a club as that of which Mr. Pool was president, Roger North mentions "Aptness to speak;" adding: "for a man may be possessed of a book-case, and think he has it *ad unguem* throughout, and when he offers at it shall find himself at a loss, and his words will not be right and proper, or perhaps too many and his expressions confused: *when he has once talked his case over, and his company have tossed it a little to and fro, then he shall utter it more readily with fewer words and much more force.*"

These words make it clear that Mr. Pool's "company" was a select "law-debating society." Far smaller as to number of members, something more festive in its arrangements, but not less bent on furthering the professional progress of its members, it was, some two hundred years since, all that the "Hardwicke" and other similar associations are at the present.*

* The mention of "the Hardwicke" brings a droll story to the writer's mind. Some few years since the members of that learned fraternity assembled at their customary place of meeting,—a large room in Anderton's Hotel, Fleet Street,—to discuss a knotty point of law anent Uses. The muster of young men was strong; and amongst them—conspicuous for his advanced years, jovial visage, red nose, and air of perplexity—sate an old gentleman who was evidently a stranger to every lawyer present. Who was he? Who brought him? Was there any one in the room who knew? Such were the whispers that floated about, concerning the portly old man, arrayed in blue coat and drab breeches and gaiters, who took his snuff in silence, and watched the proceedings with evident surprise and dissatisfaction. After listening to three speeches this antique, jolly stranger rose, and with much embarrassment addressed the chair. "Mr. President," he said,—"excuse me;—but may I ask,—is this 'The Convivial Rabbits?'" A roar of laughter followed this inquiry from a "convivial rabbit" who, having mistaken the evening of the week, had wandered into the room in which his convivial fellow-clubsters had

To such fraternities—of which the Inns of Court had several in the last century—Murray and Thurlow, Law and Erskine had recourse: and besides attending strictly professional clubs, it was usual for the students, of their respective times, to practise elocution at the coffee-houses and public spouting-rooms of the town. Murray used to argue as well as "drink champagne" with the wits; Thurlow was the irrepressible talker of Nando's; Erskine used to carry his scarlet uniform from Lincoln's Inn Hall to the smoke-laden atmosphere of Coachmakers' Hall, at which memorable "discussion forum" Edward Law is known to have spoken in the presence of a closely packed assembly of politicians, idlers upon town, shopmen, and drunkards. Thither also Horne Tooke and Dunning used to adjourn after dining with Taffy Kenyon at the Chancery Lane eating-house, where the three friends were wont to stay their hunger for sevenpence halfpenny each. "Dunning and myself," Horne Tooke said boastfully, when he recalled these economical repasts, "were generous, for we gave the girl who waited on us a penny a-piece; but Kenyon, who always knew the value of money, rewarded her with a halfpenny, and sometimes with a *promise*."

Notwithstanding the recent revival of lectures and the institution of examinations, the actual course of the law-student has changed little since the author of the "Pleader's Guide," in 1796, described the career of John Surrebutter, Esq., Special Pleader and Barrister-at-Law. The labours of "pupils in chambers" are thus noticed by Mr. Surrebutter:—

> "And, better to improve your taste,
> Are by your parents' fondness plac'd
> Amongst the blest, the chosen few
> (Blest, if their happiness they knew),
> Who for three hundred guineas paid
> To some great master of the trade,
> Have at his rooms by *special* favour
> His leave to use their best endeavour,
> By drawing pleas from nine till four,
> To earn him twice three hundred more;

held a meeting on the previous evening. On receiving the President's assurance that the learned members of a law-debating society were not "convivial rabbits," the elderly stranger buttoned his blue coat and beat a speedy retreat.

And after dinner may repair
To 'foresaid rooms, and then and there
Have 'foresaid leave, from five till ten,
To draw th' aforesaid pleas again."

Continuing to describe his professional career, Mr. Surrebutter mentions certain facts which show that so late as the close of the last century professional etiquette did not forbid special pleaders and barristers to curry favour with solicitors and solicitors' clerks by attentions which would now-a-days be deemed reprehensible. He says:—

"Whoe'er has drawn a special plea
Has heard of old Tom Tewkesbury,
Deaf as a post, and thick as mustard,
He aim'd at wit, and bawl'd and bluster'd
And died a Nisi Prius leader—
That genius was my special pleader—
That great man's office I attended,
By Hawk and Buzzard recommended;
Attorneys both of wondrous skill,
To pluck the goose and drive the quill.
Three years I sat his smoky room in,
Pens, paper, ink, and pounce consuming;
The fourth, when Epsom Day begun,
Joyful I hailed th' auspicious sun,
Bade Tewkesbury and Clerk adieu;
(Purification, eighty-two)
Of both I wash'd my hands; and though
With nothing for my cash to show,
But precedents so scrawl'd and blurr'd,
I scarce could read a single word,
Nor in my books of common-place
One feature of the law could trace,
Save Buzzard's nose and visage thin,
And Hawk's deficiency of chin;
Which I while lolling at my ease
Was wont to draw instead of pleas.
My chambers I equipt complete,
Made friends, hired books, and gave to eat;
If haply to regale my friends on,
My mother sent a haunch of ven'son,
I most respectfully entreated
The choicest company to eat it;
To wit, old Buzzard, Hawk, and Crow;
Item, Tom Thornback, Shark, and Co.
Attorneys all as keen and staunch
As e'er devoured a client's haunch.
And did I not their clerks invite
To taste said ven'son hash'd at night?

For well I knew that hopeful fry
My rising merit would descry,
The same litigious course pursue,
And when to fish of prey they grew,
By love of food and contest led,
Would haunt the spot where once they fed.
Thus having with due circumspection
Formed my professional connexion,
My desks with precedents I strew'd,
Turned critic, danc'd, or penn'd an ode,
Studied the *ton*, became a free
And easy man of gallantry;
But if while capering at my glass,
Or toying with a favourite lass,
I heard the aforesaid Hawk a-coming,
Or Buzzard on the staircase humming,
At once the fair angelic maid
Into my coal-hole I convey'd;
At once with serious look profound,
Mine eyes commencing with the ground,
I seem'd like one estranged to sleep,
'And fix'd in cogitation deep,'
Sat motionless, and in my hand I
Held my 'Doctrina Placitandi,'
And though I never read a page in't,
Thanks to that shrewd, well-judging agent,
My sister's husband, Mr. Shark,
Soon got six pupils and a clerk.
Five pupils were my stint, the other
I took to compliment his mother."

Having fleeced pupils, and worked as a special pleader for a time, Mr. Surrebutter is called to the bar; after which ceremony his action towards "the inferior branch" of the profession is not more dignified than it was whilst he practised as a Special Pleader. He continues his autobiography:—

"So now I take my brace of nags,
My note-book, clerk, and saddle-bags,
And sauntering gently on my journey,
Look out for some good rich attorney,
One that's a judge of parts and merit,
Such as that choice discerning spirit,
My worthy little friend Joe Ferret,
That honest, free, good-natured soul,
Who stands so high upon the roll.

* * * * *

His garden neat, the messuage good,
The best in all the neighbourhood,

With door Chinese the front is grac'd,
His windows are of Gothic taste,
The which to me, though all the village
Conceive they're got by fraud and pillage,
And both the exciseman and the rector
Despise his taste in architecture—
To me, whose taste is less refin'd,
And more to social joys inclin'd,
If chance my penetrating eye
His glittering, neat buffet descry—
A goodly symptom!—and behold
His well-scoured knocker shine like gold,
Look all so pretty and inviting,
I make no scruple of alighting;
At said attorney's fix my quarters,
Flatter and flirt with all his daughters,
With Kitty Ferret dance cotillions,
While you, ye worthy rum civilians,
Ye sober, persevering stagers,
Hammer your minors and your majors,
And lapt in smoke and vapours dank,
Pore over Lindwood and Lanfranc."

It appears that in Mr. Surrebutter's time (*circa* 1780) it was usual for a student to spend three whole years in the same pleader's chambers, paying three hundred guineas for the course of study. Not many years passed, however, before students saw it was not to their advantage to spend such a long period with the same instructor, and by the end of the century the industrious student who could command the fees wherewith to pay for such special tuition, usually spent a year or two in a pleader's chambers, and another year or two in the chambers of an equity draughtsman, or conveyancer. Lord Campbell, however, at the opening of the present century, spent three years in the chambers of the eminent Special Pleader, Mr. Tidd, of whose learning and generosity the biographer of the Chancellors makes cordial and grateful acknowledgment. Finding that Campbell could not afford to pay a second hundred guineas for a second year's instruction, Tidd not only offered him the run of his chambers without payment, but made the young Scotchman take back the 105*l.* which he had paid for the first twelve months.

In his later years Lord Campbell delighted to trace his legal pedigree to the great pleader and "pupillizer" of the last cen-

tury, Tom Warren. The chart ran thus: "Tom Warren had for pupil Serjeant Runnington, who instructed in the mysteries of special pleading the learned Tidd, who was the teacher of John Campbell." With honest pride and pleasant vanity the literary Chancellor maintained that he had given the genealogical tree another generation of forensic honour, as Solicitor General Dundas and Vaughan Williams, of the Common Pleas Bench, were his pupils.

Campbell speaks of *Tom Warren* as "the greater founder of the special pleading race," and maintains that "the voluntary discipline of the special pleader's office" was unknown before the middle of the last century. Those who are jealous for the fame of the great "Tom Warren" will support Campbell's statement on this point; but still they cannot shut their eyes to facts which make it clear that the voluntary discipline of a legal instructor's office or chambers was an affair of frequent occurrence long before Warren's rise. It is true that Roger North in his 'Discourse on the Study of the Laws' makes no allusion to any such voluntary discipline as an ordinary feature of a law-student's career; but in his 'Life of Lord Keeper Guildford' he expressly informs us that he was a pupil in his brother's chambers. "His lordship," writes the biographer, "having taken that advanced post, and designing to benefit a relation (the Honourable Roger North), who was a student in the law, and kept him company, caused his clerk to put into his hands all his draughts, such as he himself had corrected, and after which conveyances had been engrossed, that, by a perusal of them, he might get some light into the formal skill of conveyancing. And that young gentleman instantly went to work, and first numbered the draughts, and then made an index of all the clauses, referring to that number and folio; so that, in this strict perusal and digestion of the various matters, he acquired, not only a formal style, but also apt precedents, and a competent notion of instruments of all kinds. And to this great condescension was owing that little progress he made, which afterwards served to prepare some matters for his lordship's own perusal and settlement." Here then is a case of a pupil in a barrister's chambers in Charles II.'s reign; and it is a case that suffers nothing from the fact that the teacher took no fee.

In like manner, John Trevor (subsequently Master of the Rolls and Speaker of the Commons) about the same time was "bred a sort of clerk in old Arthur Trevor's chamber, an eminent and worthy professor of the law in the Inner Temple." On being asked what might be the name of the boy with such a hideous squint who sate at a clerk's desk in the outer room, Arthur Trevor answered, "A kinsman of mine that I have allowed to sit here, to learn the knavish part of the law." It must be observed that John Trevor was not a clerk, but merely a "sort of a clerk" in his kinsman's chamber. In fact, he was a pupil—learning his profession much in the same way in which pupils in chambers at the present time acquire a knowledge of the law; and doubtless many other industrious youths were in like manner working in the chambers of barristers who directed their labours—for love, or money, or selfish consideration of some sort.

In the latter half of the seventeenth century, and in the earlier half of the eighteenth century, students who wished to learn the practice of the law usually entered the offices of attorneys in large practice. At that period, the division between the two branches of the profession was much less wide than it subsequently became; and no rule or maxim of professional etiquette forbade Inns-of-Court men to act as the subordinates of attorneys and solicitors. Thus Philip Yorke (Lord Hardwicke) in Queen Anne's reign acted as clerk in the office of Mr. Salkeld, an attorney residing in Brook Street, Holborn, whilst he kept his terms at the Temple; and nearly fifty years later, Ned Thurlow (Lord Thurlow), on leaving Cambridge, and taking up his residence in the Temple, became a pupil in the office of Mr. Chapman, a solicitor, whose place of business was in Lincoln's Inn. There is no doubt that it was customary for young men destined for the bar thus to work in attorneys' offices; and they continued to do so without any sense of humiliation or thought of condescension, until the special pleaders superseded the attorneys as instructors.

PART XII.—MIRTH.

CHAPTER LXIV.

WIT OF LAWYERS.

NO lawyer has given better witticisms to the jest-books than Sir Thomas More; and the wide and lasting popularity of his pleasantries is a weighty proof that the multitude can appreciate humour that is free from coarseness, and gaiety that has no taint of buffoonery. Like all legal wits, he enjoyed a pun, as Sir Thomas Manners, the mushroom Earl of Rutland, discovered when he winced under the cutting reproof of his insolence, conveyed in the translation of "Honores mutant mores" —*Honours change manners.* But though he would condescend to play with words, as a child plays with shells on a sea-beach, he could at will command the laughter of his readers without having recourse to mere verbal antics. He delighted in what may be termed humorous mystification. Entering Bruges at a time when his wit and learning had achieved European notoriety, he was met by the challenge of a noisy fellow, who proclaimed himself ready to dispute with the whole world—or any other man—"in omni scibili et de quolibet ente." Accepting the invitation, and entering the lists in the presence of all the scholastic magnates of Bruges, More gravely inquired, "An averia carucæ capta in vetitonamio sint irreplegibilia?" Not versed in the principles and terminology of the common law of England, the challenger could only stammer and blush—whilst More's eye twinkled maliciously, and his auditors were convulsed with laughter.*

* A similar attempt at mystification with very different success is said to have been made by an impudent Chancery barrister against Lord Keeper Williams,

Much of his humour was of the sort that is ordinarily called *quiet* humour, because its effect does not pass off in shouts of merriment. Of this kind of pleasantry he gave the Lieutenant of the Tower a specimen, when he said, with as much courtesy as irony, "Assure yourself I do not dislike my cheer; but whenever I do, then spare not to thrust me out of your doors." After the dismal tragedy had been acted out, and the wit's pure soul had passed up to heaven, the lieutenant we may be sure smiled through his tears at the recollection of that droll speech. Of the same sort were the pleasantries with which, on the morning of his execution, he with fine consideration for others strove to divert attention from the cruelty of his doom. "I see no danger," he observed, with a smile, to his friend Sir Thomas Pope, shaking his water-bottle as he spoke, "but that this man may live longer if it please the king." Finding in the craziness of the scaffold a good pretext for leaning in friendly fashion on his gaoler's arm, he extended his hand to Sir William Kingston, saying, "Master Lieutenant, I pray you see me safe up; for my coming down let me shift for myself." Even to the headsman he gave a gentle pleasantry and a smile from the block itself, as he put aside his beard so that the keen blade should not touch it. "Wait, my good friend, till I have removed my beard," he said, turning his eyes upwards to the official, "for it has never offended his highness."

His wit was not less ready than brilliant, and on one occasion its readiness saved him from a sudden and horrible death.

Bacon's clerical successor on the woolsack,—whose incompetence for his office was a jest with lawyers of every grade. Seizing an opportunity when sudden illness had deprived the Lord Keeper of the *saving* presence of his Master of the Rolls, this malapert counsellor rose, and made a motion which, Williams's biographer assures us, was "crammed like a grenade with obsolete words, coins of far-fetched antiquity, which had been long disused, worse than Sir Thomas More's 'An averia carucæ capta in withernam sint irreplegibilia.' With these misty and recondite phrases he thought to leave the new judge groping about in the dark." But on this occasion impudence met with signal discomfiture; for with equal readiness and good temper the Lord Keeper completely turned the tables on his adversary. "With a serious face the Lord Keeper answered him in a cluster of most crabbed motions picked out of metaphysics and logic, as 'categorematical' and 'syncategorematical,' and a deal of such drumming stuff, that the motioner, being foiled at his own weapon, and well laughed at in the Court, went home with a new lesson—that he that tempts a wise man in jest shall make a fool of himself in earnest."

Sitting on the roof of his high gate-house at Chelsea, he was enjoying the beauties of the Thames and the sunny richness of the landscape, when his solitude was broken by the unlooked-for arrival of a wandering maniac. Wearing the horn and badge of a Bedlamite, the unfortunate creature showed the signs of his malady in his equipment as well as his countenance. Having cast his eye downwards from the parapet to the foot of the tower, he conceived a mad desire to hurl the Chancellor from the flat roof. "Leap, Tom! leap!" screamed the athletic fellow, laying a firm hand on More's shoulder. Fixing his attention with a steady look, More said, coolly, "Let us first throw my little dog down, and see what sport that will be." In a trice the dog was thrown into the air. "Good!" said More, feigning delight at the experiment: "now run down, fetch the dog, and we'll throw him off again." Obeying the command, the dangerous intruder left More free to secure himself by a bar, and to summon assistance with his voice.

For a good end this wise and mirth-loving lawyer would play the part of a practical joker; and it is recorded that by a jest of the practical sort he gave a wholesome lesson to an old civic magistrate, who, at the Sessions of the Old Bailey, was continually telling the victims of cut-purses that they had only themselves to thank for their losses—that purses would never be cut if their wearers took proper care to retain them in their possession. These orations always terminated with, "I never lose *my* purse; cut-purses never take *my* purse; no, i'faith, because I take proper care of it." To teach his worship wisdom, and cure him of his self-sufficiency, More engaged a cut-purse to relieve the magistrate of his money-bag whilst he sat upon the bench. One is glad to know that the cut-purse did his work effectually, and that his worship was never again heard to say, "I never lose *my* purse; cut-purses never take *my* purse; no, i'faith, because I take proper care of it." A story is recorded of another Old Bailey judge who became the victim of a thief under very ridiculous circumstances. Whilst he was presiding at the trial of a thief in the Old Bailey, Sir John Sylvester, Recorder of London, said, incidentally, that he had

left his watch at home. The trial ending in an acquittal, the prisoner had no sooner gained his liberty than he hastened to the recorder's house, and sent in word to Lady Sylvester that he was a constable and had been sent from the Old Bailey to fetch her husband's watch. When the recorder returned home and found how he had lost his watch, it is to be feared that Lady Sylvester lost her usual equanimity. *Apropos* of these stories Lord Campbell tells—how, at the opening period of his professional career, soon after the publication of his "Nisi Prius Reports," he on circuit successfully defended a prisoner charged with a criminal offence; and how, whilst the success of his advocacy was still quickening his pulses, he discovered that his late client, with whom he had held a confidential conversation, had contrived to relieve him of his pocket-book, full of bank-notes. As soon as the presiding judge, Lord Chief Baron Macdonald, heard of the mishap of the reporting barrister, he exclaimed, "What! does Mr. Campbell think that no one is entitled to *take notes* in court except himself?"

By the urbane placidity which marked the utterance of his happiest speeches, Sir Nicholas Bacon often recalled to his hearers the courteous easiness of More's *repartees*. Keeping his own pace in society, as well as in the Court of Chancery, neither satire nor importunity could ruffle or confuse him. When Elizabeth, looking disdainfully at his modest country mansion, told him that the place was too small, he answered with the flattery of gratitude, "Not so, madam, your highness has made me too great for my house." Leicester having suddenly asked him his opinion of two aspirants for court favour, he responded on the spur of the moment, "By my troth, my lord, the one is a grave councillor; the other is a proper young man, and so he will be as long as he lives." To the queen, who pressed him for his sentiments respecting the effect of monopolies—a delicate question for a subject to speak his mind upon—he answered, with conciliatory lightness "Madam, will you have me speak the truth? *Licentiâ* omnes deteriores sumus." In court he used to say, "Let us stay a little that we may have done the sooner."* But notwith-

* This speech did not originate with Sir Nicholas. In the 'Apophthegmes'

standing his deliberation and the stutter that hindered his utterances, he could be quicker than the quickest, and sharper than the most acrid, as the loquacious barrister discovered who was suddenly checked in a course of pert talkativeness by this tart remark from the stammering Lord Keeper: "There is a difference between you and me,—for me it is a pain to s-speak, for you a pain to hold your tongue." Some of the stories of his facetiousness on the bench are so unworthy of his powers, that their badness inclines the critic to question their authenticity. Amongst these doubtful anecdotes may be placed the story of the convicted felon named Hog, who implored Sir Nicholas not to pass sentence of death upon him because Hog and Bacon were near a-kin to each other; to which piece of improbable sauciness Sir Nicholas, then acting as a judge on the Northern Circuit, is said to have answered, with brutal jocularity, "Nay, my friend, you and I cannot be kindred except you be hanged, for hog is not bacon until it be hanged; so the sentence of the court is, &c., &c." More appropriate to the dignity of his office than this outburst of savage pleasantry, was the silence which he maintained when a rogue in the dock, pointing to him, exclaimed, "I charge you, in the queen's name, to seize and take away that man in the red gown there, for I go in danger of my life because of him!" But though he refrained from laughing at the interruption in court, he often laughed over the recollection of it at his dinner-table. That the familiar story of his fatal attack of cold is altogether true one cannot well believe, for it seems highly improbable that the Lord Keeper, in his seventieth year, would have sate down to be shaved near an open window in the month of February. But though the anecdote may not be historically exact, it may be accepted as a faithful portraiture of his more stately and severely courteous humour. "Why did you suffer me to sleep thus exposed?" asked the Lord Keeper, waking in

Francis Bacon says, "Sir Amyas Paulet, when he saw too much haste made in any matter, was wont to say, 'Stay awhile, that we may make an end the sooner.'" In the "Certaine Apophthegmes" the same words are assigned to "a wise man *that had it for a byeword.*" Lord Bacon himself was often heard to say, "Gentlemen, nature is a labyrinth, in which the very haste you move with, will make you lose your way."

a fit of shivering from slumber into which his servant had allowed him to drop, as he sate to be shaved in a place where there was a sharp current of air. "Sir, I durst not disturb you," answered the punctilious valet, with a lowly obeisance. Having eyed him for a few seconds, Sir Nicholas rose and said, "By your civility I lose my life." Whereupon the Lord Keeper retired to the bed from which he never rose.

Amongst Elizabethan judges* who aimed at sprightliness on the bench, Hatton merits a place; but there is reason to think that the idlers, who crowded his court to admire the foppishness of his judicial costume, did not get one really good *mot* from his lips to every ten bright sayings that came from the cleverer barristers practising before him. One of the best things attributed to him is a pun. In a case concerning the limits of certain land, the counsel on one side having remarked with

* The legal witticisms and retorts recorded by Lord Bacon in the "Apophthegmes" incline us to hold a rather high opinion of the humour and quickness of the Elizabethan bar. Some of those stories have been woven into the narrative of the 'Book about Lawyers;' a few more of them may be transcribed in this note. Here is a clever reply that came from Bromley whilst he was Solicitor-General:—"Mr. Bromley, solicitor, giving in evidence for a deed, which was impeached to be fraudulent, was urged by the counsel on the other side with this presumption, that in two former suits, when the title was made, that deed was passed over in silence, and some other conveyance stood upon. Mr. Justice Catline, taking in with that side, asked the Solicitor, 'I pray thee, Mr. Solicitor, let me ask you a familiar question. I have two geldings in my stable, and I have divers times business of importance, and still I send forth one of my geldings, and not the other; would you not think I set him aside for a jade?' 'No, my lord,' said Bromley, 'I would think you spared him for your own saddle.'" Here is a good story of Sir Thomas More:—"Sir Thomas More, when the counsel of the party pressed him for a longer day to perform the decree, said, 'Take Saint Barnaby's day, which is the longest day in the year.' Now St. Barnaby's day was within few days following." Now for a merry tale of an Elizabethan man-upon-town, Jack Roberts, whose declared ignorance of legal forms was of course merely a humorous assumption:—"Jack Roberts was desired by his taylor, when the reckoning grew somewhat high, to have a bill of his hand. Roberts said 'I am content, but you must let no man hear it.' When the taylor brought him the bill, he tore it as in choler, and said to him, 'You use me not well; you promised me no one should know it, and here you have put in 'Be it known unto all men by these presents.'" Amongst the "Certaine Apophthegmes" is the following story. "In eighty-eight, when the queen went from Temple Bar along Fleet Street, the lawyers were ranked on one side, and the companies of the City on the other; said Master Bacon to a lawyer that stood next him, 'Do but observe the courtiers; if they bow first to the citizens they are in debt, if first to us they are in law.'" How about the courtiers who were in debt and in law also?

explanatory emphasis, "We lie on this side, my lord;" and the counsel on the other side having interposed with equal vehemence, "We lie on this side, my lord,"—the Lord Chancellor leaned backwards, and drily observed, "If you lie on both sides, whom am I to believe?" In Elizabethan England the pun was as great a power in the jocularity of the law-courts as it is at present; the few surviving witticisms that are supposed to exemplify Egerton's lighter mode on the bench, being for the most part feeble attempts at punning. For instance, when he was asked, during his tenure of the Mastership of the Rolls, to *commit* a cause, *i.e.*, to refer it to a Master in Chancery, he used to answer, "What has the cause done that it should be committed?" It is also recorded of him that, when he was asked for his signature to a petition of which he disapproved, he would tear it in pieces with both hands, saying, "You want my hand to this? You shall have it; ay, and both my hands too." Such exhibitions of sportive temper were applauded by the bystanders, who, respecting his wit as judicial wit ought to be respected, were charmed by the old man's venerable aspect.

Of Egerton's student days a story is extant, which has merits, independent of its truth or want of truth. The hostess of a Smithfield tavern had received a sum of money from three graziers, in trust for them, and on engagement to restore it to them on their joint demand. Soon after this transfer, one of the co-depositors, fraudulently representing himself to be acting as the agent of the other two, induced the old lady to give him possession of the whole of the money—and thereupon absconded. Forthwith the other two depositors brought an action against the landlady, and were on the point of gaining a decision in their favour, when young Egerton, who had been taking notes of the trial, rose as *amicus curiæ*, and argued, "This money, by the contract, was to be returned to *three*, but *two* only sue; —where is the *third?* let him appear with the others; till then the money cannot be demanded from her." Nonsuit for the plaintiffs—for the young student a hum of commendation.

Many of the pungent sayings current in Westminster Hall at the present time, and attributed to eminent advocates who either are still upon the forensic stage, or have recently with-

drawn from it, were common jests amongst the lawyers of the seventeenth century. What law-student now eating dinners at the Temple has not heard the story of Serjeant Wilkins, who, on drinking a pot of stout in the middle of the day, explained that, as he was about to appear in court, he thought it right to fuddle his brain down to the intellectual standard of a British jury. This merry thought, two hundred and fifty years since, was currently attributed to Sir John Millicent, of Cambridgeshire, of whom it is recorded—"being asked how he did conforme himselfe to the grave justices his brothers, when they met, 'Why, in faithe,' sayes he, 'I have no way but to drinke myself downe to the capacitie of the Bench.'" A few years later, young Edward Hyde was scarcely less disrespectful to the bench, when, hinting that the death of a few judges was matter of small moment in comparison with his own chances of preferment, he wrote to his friend Whitelock, "Our best news is that we have good wine abundantly come over; and the worst, that the plague is in town, *and no judges die.*"

Another witticism, currently attributed to various recent celebrities, but usually fathered upon Richard Brinsley Sheridan—on whose reputation have been heaped the brilliant *mots* of many a speaker whom he never heard, and the indiscretions of many a sinner whom he never knew—is certainly as old as Shaftesbury's bright and unprincipled career. When Charles II. exclaimed, "Shaftesbury, you are the most profligate man in my dominions," the reckless Chancellor answered, "Of a subject, sir, I believe I am." It is likely enough that Shaftesbury merely repeated the witticism of a previous courtier; but it is certain that Sheridan was not the first to strike out the pun. To trace the lineage of a proverbial repartee is as difficult as to father it on a famous talker is easy; and perhaps it is better to let each historic reputation enjoy the honours bestowed upon it by inaccurate tradition and gossip, than to restore a few misappropriated treasures to their rightful owners. In the long run, the brilliant reputation neither gains more than it loses, nor yields more than it receives through the rumour of generations.

In this place, however, let a contradiction be given to a baseless story, which exalts Sir William Follett's reputation for

intellectual readiness and argumentative ability. The story runs, that early in the January of 1845, whilst George Stephenson, Dean Buckland, and Sir William Follett were Sir Robert Peel's guests at Drayton Manor, Dean Buckland vanquished the engineer in a discussion on a geological question. The next morning, George Stephenson was walking in the gardens of Drayton Manor before breakfast, when Sir William Follett accosted him, and sitting down in an arbour asked for the facts of the argument. Having quickly "picked up the case," the lawyer joined Sir Robert Peel's guests at breakfast, and amused them by leading the dean back to the dispute of the previous day, and overthrowing his fallacies by a skilful use of the same arguments which the self-taught engineer had employed with such ill effect. "What do you say, Mr. Stephenson?" asked Sir Robert Peel, enjoying the dean's discomfiture. "Why," returned George Stephenson, "I only say this, that of all the powers above and under earth, there seems to me no power so great as the gift of the gab." This is the story. But there are facts which contradict it. The only visit paid by George Stephenson to Drayton Manor was made in the December of 1844, not the January of 1845. The guests (invited for Dec. 14, 1844) were Lord Talbot, Lord Aylesford, the Bishop of Lichfield, Dr. Buckland, Dr. Lyon Playfair, Professor Owen, George Stephenson, Mr. Smith of Deanston, and Professor Wheatstone. Sir William Follett was not of the party, and did not set foot within Drayton Manor during George Stephenson's visit there. Of this, Professor Wheatstone (who furnished the present writer with these particulars) is certain. Moreover, it is not to be believed that Sir William Follett, an overworked invalid (who died in the June of 1845 of the pulmonary disease under which he had suffered for years) would sit in an arbour before breakfast on a winter's morning to hold debate with a companion on any subject. The story is a revival of an anecdote first told long before George Stephenson was born.

In lists of legal *facetiæ* the habit of punning is not more noticeable than the prevalent unamiability of the jests. Advocates are intellectual gladiators, using their tongues as soldiers of fortune use their swords; and when they speak, it is to

vanquish an adversary. Antagonism is an unavoidable condition of their existence; and this incessant warfare gives a merciless asperity to their language, even when it does not infuse their hearts with bitterness. Duty enjoins the barrister to leave no word unsaid that can help his client, and encourages him to perplex by satire, baffle by ridicule, or silence by sarcasm, all who may oppose him with statements that cannot be disproved, or arguments that cannot be upset by reason. That which duty bids him do, practice enables him to do with terrible precision and completeness; and in many a case the caustic tone, assumed at the outset as a professional weapon, becomes habitual, and, without the speaker's knowledge, gives more pain within his home than in Westminster Hall. With the pleasure caused by the perusal of a collection of brilliant *mots*, there is always an alloy of sadness, when the reader reflects how large a portion of his entertainment is made up of pungent repartees, which caused acute pain at their first utterance, and have inflicted similar pain at countless repetitions—pain, moreover, that, whilst it can have been in no way beneficial to the sufferers, has caused a lively and thoroughly unchristian delight to its numerous spectators. To win applause is the vain man's constant aim, to give pleasure the good man's habitual purpose; and not the least instructive lesson taught by biography and the daily experiences of life is this—that whilst really good men are always found gentle of speech, and ready to sacrifice their love of approval to the enjoyment of their companions, mere witlings as invariably have cruel tongues, and cannot resist the temptation to sacrifice their friends to a jest. But if it is true that the wits who cause society the most laughter are too often the same wits who cause the world the greater part of its needless anguish; it is no less true that amongst cruel jesters the most cruel have been lawyers. It may, moreover, be added, that the lawyers, most hated for their brutal wit in Westminster Hall, have in some cases been equally beloved for their thorough amiability in private life.

Some of the well-known witticisms attributed to great lawyers are so brutally personal and malignant, that no man possessing any respect for human nature can read them without endeavouring to regard them as mere biographic fabri-

cations. It is recorded of Charles Yorke that, after his election to serve as member for the University of Cambridge, he, in accordance with etiquette, made a round of calls on members of senate, giving them personal thanks for their votes; and that on coming to the presence of a supporter—an old "fellow" known as the ugliest man in Cambridge—he addressed him thus, after smiling "an aside" to a knot of bystanders—"Sir, I have reason to be thankful to my friends in general; but I confess myself under particular obligation to you for the very *remarkable countenance* you have shown me on this occasion." There is no doubt that Charles Yorke could make himself unendurably offensive; it is just credible that without a thought of their double meaning he uttered the words attributed to him; but it is not to be believed that he—an English gentleman—thus intentionally insulted a man who had rendered him a service.

A story far less offensive than the preceding anecdote, but in one point similar to it, is told of Judge Fortescue-Aland (subsequently Lord Fortescue) and a counsel. Sir John Fortescue-Aland was disfigured by a nose which was purple, and hideously misshapen by morbid growth. Having checked a ready counsel with the needlessly harsh observation, "Brother, brother, you are handling the case in a very lame manner," the angry advocate gave vent to his annoyance by saying with a perfect appearance of *sang-froid*, "Pardon me, my lord; have patience with me, and I will do my best to make the case as plain as—as—the nose on your lordship's face." In this case the personality was uttered in hot blood, by a man who deemed himself to be striking the enemy of his professional reputation.

If they were not supported by incontrovertible testimony, the admirers of the great Sir Edward Coke would reject as spurious many of the overbearing rejoinders which escaped his lips in courts of justice. His tone in his memorable altercation with Bacon at the bar* of the Court of Exchequer speaks

* Disreputable squabbles betwixt rival barristers and between the bench and the bar occasionally in our own times occur in the Old Bailey courts, in our sessions' houses, and in other minor courts of justice—where the ruffianism of the prisoners is now and then surpassed by the ruffianism of the advocates; but we should be

ill for the courtesy of English advocates in Elizabeth's reign; and to any student who can appreciate the dignified formality and punctilious politeness that characterized English gentlemen in the old time, it is matter of perplexity how a man of Coke's learning, capacity, and standing could have marked his contempt for "Cowell's Interpreter," by designating the author in open court Dr. Cowheel. Scarcely in better taste were the coarse personalities with which, as Attorney General, he deluged Garnet the Jesuit, whom he described as "a Doctor of Jesuits; that is, a Doctor of six D's—as Dissimulation, Deposing of princes, Disposing of kingdoms, Daunting and Deterring of subjects, and Destruction."

In comparatively recent times few judges surpassed Thurlow in overbearing insolence to the bar. To a few favourites, such as John Scott and Kenyon, he could be consistently indulgent, although even to them his patronage was often disagreeably contemptuous; but to those who provoked his displeasure by a perfectly independent and fearless bearing he was a malignant persecutor. For instance, in his animosity to Richard Pepper Arden (Lord Alvanley) he often forgot his duty as a judge and his manners as a gentleman. John Scott on one occasion, rising in the Court of Chancery to address the court after

astounded and greatly pained if Sir Roundell Palmer or Sir Hugh Cairns were to imitate the violence of Coke in his outburst against Bacon. "*Coke.*—Mr. Bacon, if you have any tooth against me, pluck it out, for it will do you more hurt than all the teeth in your head will do good. *Bacon* (coldly).—Mr. Attorney, I respect you; I fear you not; and the less you speak of your own greatness, the more I will think of it. *Coke.*—I think scorn to stand upon terms of greatness towards you, who are less than little—less than the least (adding other such strange light terms, with that insolence which cannot be expressed)." So runs the report. Bacon adds—"With this he spake neither I nor himself could tell what, as if he had been born Attorney General, and in the end bade me not meddle with the queen's business but with mine own, and that I was unsworn." It is hoped that no member of the Old Bailey will be hurt by the foregoing mention of his court. Of late years there has been a visible improvement in the conduct of proceedings in that court; but in the days when that good scholar and man, Serjeant Adams, acted as assistant-judge, the collisions between the bench and bar were of scandalous frequency and violence. The last words spoken by the serjeant in his official character comically illustrate the state of affairs during his time. Having concluded a summing up with reference to an altercation which had occurred during the trial between himself and certain barristers, he ended his remarks by saying—"*And so, gentlemen of the jury, there was a shindy.*" With these memorable and suggestive words ended the last judicial address of an excellent judge.

Arden, who was his leader in the cause, and had made an unusually able speech, Lord Thurlow had the indecency to say, "Mr. Scott, I am glad to find that you are engaged in the cause, for I now stand some chance of knowing something about the matter." To the Chancellor's habitual incivility and insolence it is allowed that Arden always responded with dignity and self-command, humiliating his powerful and ungenerous adversary by invariable good-breeding. Once, through inadvertence, he showed disrespect to the surly Chancellor, and then he instantly gave utterance to a cordial apology, which Thurlow was not generous enough to accept with appropriate courtesy. In the excitement of professional altercation with counsel concerning the ages of certain persons concerned in a suit, he committed the indecorum of saying aloud, "I'll lay you a bottle of wine." Ever on the alert to catch his enemy tripping, Thurlow's eye brightened as his ear caught the careless words; and in another instant he assumed a look of indignant disgust. But before the irate judge could speak, Arden exclaimed, "My lord, I beg your lordship's pardon; I really forgot where I was." Had Thurlow bowed a grave acceptance of the apology, Arden would have suffered somewhat from the misadventure; but unable to keep his abusive tongue quiet, the "Great Bear" growled out, in allusion to the offender's Welsh judgeship, "You thought you were in your own court, I presume." To the attorneys' clerks who heard these unmannerly words it seemed that the Chancellor had said a brilliant thing. The barristers present thought otherwise.

More laughable, but not more courteous, was the same Chancellor's speech to a solicitor who had made a series of statements in a vain endeavour to convince his lordship of a certain person's death. "Really, my lord," at last the solicitor exclaimed, goaded into a fury by Thurlow's repeated ejaculations of "That's no proof of the man's death;" "Really, my lord, it is very hard, and it is not right that you wont believe me. I saw the man dead in his coffin. My lord, I tell you he was my client, and he is dead." "No wonder," retorted Thurlow, with a grunt and a sneer, "*since he was your client.* Why did you not tell me that sooner? It would kill me to have such a fellow as you for my attorney." That this great lawyer

could thus address a respectable gentleman is less astonishing when it is remembered that he once horrified a party of aristocratic visitors at a country house, by replying to a lady who pressed him to take some grapes, "Grapes, madam, grapes! Did not I say a minute ago that I had the *gripes!*" Once this ungentle lawyer was fairly worsted in a verbal conflict by an Irish paviour. On crossing the threshold of his Ormond Street house one morning, the Chancellor was incensed at seeing a load of paving-stones placed before his door. Singling out the tallest of a score of Irish workmen who were repairing the thoroughfare, he poured upon him one of those torrents of curses with which his most insolent speeches were usually preluded, and then told the man to move the stones away instantly. "Where shall I take them to, your honour?" the paviour inquired. From the Chancellor another volley of blasphemous abuse, ending with, "You lousy scoundrel, take them to hell!—do you hear me?" "Have a care, your honour," answered the workman, with quiet drollery, "don't you think now that if I took 'em to the other place your honour would be less likely to fall over them?"

Thurlow's incivility to the solicitor reminds us of the cruel answer given by another great lawyer to a country attorney, who, through fussy anxiety for a client's interests, committed a grave breach of professional etiquette. Let this attorney be called Mr. Smith, and let it be known that Mr. Smith, having come up to London from a secluded district of a remote county, was present at a consultation of counsellors learned in the law upon his client's cause. At this interview, the leading counsel in the cause, the Attorney General of the time, was present and delivered his final opinion with characteristic clearness and precision. The consultation over, the country attorney retreated to the Hummums Hotel, Covent Garden, and instead of sleeping over the statements made at the conference, passed a wretched and wakeful night, harassed by distressing fears, and agitated by a conviction that the Attorney General had overlooked the most important point of the case. Early next day, Mr. Smith, without appointment, was at the great counsellor's chambers, and by vehement importunity, as well as a liberal donation to the clerk, succeeded in forcing his way to the

advocate's presence. "Well, Mis-ter Smith," observed the Attorney General, to his visitor, turning away from one of his devilling juniors, who chanced to be closeted with him at the moment of the intrusion, "what may you want to say? Be quick, for I am pressed for time." Notwithstanding the urgency of his engagements, he spoke with a slowness which, no less than the suspicious rattle of his voice, indicated the fervour of displeasure. "Sir Causticus Witherett, I trust you will excuse my troubling you; but, sir, after our yesterday's interview, I went to my hotel, the Hummums, in Covent Garden, and I have spent the evening and all night turning over my client's case in my mind, and the more I turn the matter over in my mind, the more reason I see to fear that you have not given one point due consideration." A pause, during which Sir Causticus steadily eyed his visitor, who began to feel strangely embarrassed under the searching scrutiny; and then—"State the point, Mis-ter Smith, but be brief." Having heard the point stated, Sir Causticus Witherett inquired, "Is that all you wish to say?" "All, sir—all," replied Mr. Smith; adding nervously, "And I trust you will excuse me for troubling you about the matter; but, sir, I could not sleep a wink last night; all through the night I was turning this matter over in my mind." A glimpse of silence. Sir Causticus rose and standing over his victim made this final speech—"Mis-ter Smith, if you take my advice, given with sincere commiseration for your state, you will without delay return to the tranquil village in which you habitually reside. In the quietude of your accustomed scenes you will have leisure to *turn this matter over in what you are pleased to call your mind.* And I am willing to hope that *your mind* will recover its usual serenity. Mr. Smith, I wish you a very good morning." By sarcasm, of which this speech affords a good example, Sir Causticus Witherett, throughout his march upwards to the woolsack, sowed deadly animosities in the breasts of men who eventually proved their power to injure him; and yet, notwithstanding his reprehensible indifference to the feelings of those with whom he comes in collision, he is known to be a generous friend, and in private life a most amiable companion.

Legal biography abounds with ghastly stories that illustrate the insensibility with which the hanging judges in past generations used to don the black cap jauntily, and smile at the wretched beings whom they sentenced to death. Perhaps of all such anecdotes the most thoroughly sickening is that which describes the conduct of Jeffreys, when, as Recorder of London, he passed sentence of death on his old and familiar friend, Richard Langhorn, the Catholic barrister—one of the victims of the Popish Plot phrensy. It is recorded that Jeffreys, not content with consigning his friend to a traitor's doom, maliguantly reminded him of their former intercourse, and with devilish ridicule admonished him to prepare his soul for the next world. The authority which gives us this story adds that by thus insulting a wretched gentleman and personal associate, Jeffreys, instead of rousing the disgust of his auditors, elicited their enthusiastic applause. Whose conduct merits the greater odium—that of the jester who could thus insult humanity, or of the bystanders who had not humanity enough to wince under such an exhibition of demoniacal cruelty? Unless the case has been overstated against Jeffreys, the average Englishman of Charles II.'s time must have been a far lower creature than any cynic has dared to paint him. Perplexing inconsistency of human nature!—that the same generation of Englishmen who could tolerate and applaud the Popish Plot atrocities, could almost with the same breath damn to eternal ignominy the judge who was an official instrument of those and similar atrocities! Having cheered him for his judicial energy, they went on to stigmatize him as an enemy of their race, and nicknamed his country estate "Aceldama!"

In a note to a passage in one of the Waverley Novels, Scott tells a story of an old Scotch judge, who, as an enthusiastic chess-player, was much mortified by the success of an ancient friend, who invariably beat him when they tried their powers at the beloved game. After a time the humiliated chess-player had his day of triumph. His conqueror happened to commit murder, and it became the judge's not altogether painful duty to pass upon him the sentence of the law. Having in due form and with suitable solemnity commended his soul to the divine mercy, he, after a brief pause, assumed his ordinary

colloquial tone of voice, and nodding humorously to his old friend, observed—"And noo, Jammie, I think ye'll alloo that I hae checkmated you for ance." One would be inclined to place this story amongst ghastly fictions, did not good historic testimony support even more repulsive accounts of the mode in which justice was *nominally* enforced in Scotland during the last century. So late as 1752, the Duke of Argyll, acting as Lord Justice General in a *circuit* Court of Justiciary, presided at the memorable trial when a packed jury (eleven of whom were Campbells) convicted James Stewart of a murder which he manifestly could not have perpetrated—the flagrantly false verdict being only an act of hostility against the Stewarts, with whom the Campbells were then in active feud. On being taunted with the disgrace which this foul deed had brought on his whole clan, an aged Campbell coolly answered—"Heck, ye say richt. The puir lad was guiltless. That's the very thing. Anybody can get a man hanget that's guilty, but it is only Callumore can hang a man wha's no guilty ava."

A story of less historical certainty is told of the manner in which the offences of persons in authority were punished at an earlier period in North Britain. From time immemorial custom has ordained in Scotland that judges on circuit, when they have occasion to enter a royal burgh, are to be met as they approach the town, and invited within the walls. Aberdeen, however, is an exception to this rule. She alone of all the royal burghs of Scotland declines to welcome thus cordially the representatives of the sovereign; and the story, which accounts for her churlishness, tells that centuries since, when she complied with the universal custom, her lord provost, chancing to offend the grand justiciar by some trivial solecism, was forthwith condemned without trial, and executed without reference to written or unwritten law. At the grand justiciar's bidding, his body-guard seized the mayor, and strung him up to the nearest tree. The dignity of insulted justice having thus asserted itself, the grand justiciar entered Aberdeen, where the citizens, not knowing the exact limits of his suspensory power, received him with enthusiastic cordiality; but subsequently the authorities of the city, after much anxious deliberation, decided that no future mayor of Aberdeen should conform

to a usage which had been productive of such unpleasant consequences.

Horrible are the flippant tales told about the "hanging judges" of the days, not far distant, when women were judicially murdered for offences that would not now-a-days get them six months' imprisonment, and when sentence of death was recorded against children for misdeeds that would have been amply punished by a single application of a birch-rod. And of all these bloodthirsty wearers of the ermine, no one, since the opening of the eighteenth century, has fared worse than Sir Francis Page—the virulence of whose tongue and the cruelty of whose nature were marks for successive satirists. In one of his Imitations of Horace, Pope says—

> "Slander or poison dread from Delia's rage,
> Hard words or hanging, if your judge be Page."

In the same spirit the poet penned the lines of the "Dunciad"—

> "Morality, by her false guardians drawn,
> Chicane in furs, and Casuistry in lawn,
> Gasps, as they straighten at each end the cord,
> And dies, when Dulness gives her—the Sword."

Powerless to feign insensibility to the blow, Sir Francis openly fitted this *black* cap to his dishonoured head by sending his clerk to expostulate with the poet. The ill-chosen ambassador performed his mission by showing that, in Sir Francis's opinion, the whole passage would be sheer nonsense, unless "Page" were inserted in the vacant place. Johnson and Savage took vengeance on the judge for the judicial misconduct which branded the latter poet a murderer; and Fielding, in "Tom Jones," illustrating by a current story the offensive levity of the judge's demeanour at capital trials, makes him thus retort on a horse-stealer: "Ay! thou art a lucky fellow; I have travelled the circuit these forty years, and never found a horse in my life; but I'll tell thee what, friend, thou wast more lucky than thou didst know of; for thou didst not only find a horse, but a halter too, I promise thee." This scandal to his professional order was permitted to insult the humane sentiments of the nation for a long period. Born in 1661, he died in 1741, whilst he

was still occupying a judicial place; and it is said of him, that in his last year he pointed the ignominious story of his existence by a speech that soon ran the round of the courts. In answer to an inquiry for his health, the octogenarian judge observed, "My dear sir—you see how it fares with me; I just manage to keep *hanging on, hanging on.*" This story is ordinarily told as though the old man did not see the unfavourable significance of his words; but it is probable that he uttered them wittingly and with a sneer—in the cynicism and shamelessness of old age.

A man of finer stuff and of various merits, but still famous as a "hanging judge," was Sir Francis Buller, who also made himself odious to the gentler sex by maintaining that husbands might flog their wives,* if the chastisement were administered with a stick not thicker than the operator's thumb. But the severity to criminals, which gave him a place amongst hanging judges, was not a consequence of natural cruelty. Inability to devise a satisfactory system of secondary punishments, and a genuine conviction that ninety-nine out of every hundred culprits were incorrigible, caused him to maintain that the gallows-tree was the most efficacious as well as the cheapest instrument that could be invented for protecting society against malefactors. Another of his stern *dicta* was, that previous good character was a reason for increasing rather than a reason for lessening a culprit's punishment; "For," he argued, "the longer a pri-

* "The other unguarded saying, which escaped from him unpremeditatedly, excited general animadversion—namely, that a husband had a right to chastise his wife with a stick no thicker than his thumb. The subject offered too fair an opportunity to the caricaturists not to be eagerly grasped at. His portrait as Judge Thumb speedily adorned the print-shops, and the women enjoyed a hearty laugh at the expense of this ungallant champion of club law. A similar ungallant doctrine had been mooted in the preceding century by Dr. Marmaduke Coghill, judge of the Prerogative Court for Ireland, with still more detriment to himself. Having been called upon to decide the grounds of a divorce sued for by a wife against her husband, who had given her a good beating, the venerable civilian delivered an opinion that with such a switch as the one he held in his hand, moderate chastisement was within the husband's matrimonial privilege. This legal maxim occasioned so much offence or alarm to a lady to whom the doctor had been for some time paying his addresses with a fair prospect of success, that she peremptorily dismissed the asserter of so ungallant a doctrine. Dr. Coghill, as may be guessed from his opinions, died unmarried."—*Lives of Twelve Eminent Judges of the Last and Present Century.* By William C. Townsend, Esq., M.A., Recorder of Macclesfield.

soner has enjoyed the good opinion of the world, the less are the excuses for his misdeed, and the more injurious is his conduct to public morality."

In contrast to these odious stories of hanging judges are some anecdotes of great men who abhorred the atrocities of our penal system, long before the worst of them were swept away by reform. Lord Mansfield has never been credited with lively sensibilities, but his humanity was so shocked by the bare thought of killing a man for committing a trifling theft, that he on one occasion ordered a jury to find that a stolen trinket was of less value than forty shillings—in order that the thief might escape the capital sentence. The prosecutor, a dealer in jewellery, was so mortified by the judge's leniency, that he exclaimed, "What, my lord, my gold trinket not worth forty shillings? Why, the fashion alone cost me twice the money!" Removing his glance from the vindictive tradesman, Lord Mansfield turned towards the jury, and said, with solemn gravity, "As we stand in need of God's mercy, gentlemen, let us not hang a man for fashion's sake."

Tenderness of heart was even less noticeable in Kenyon than in Murray; but Lord Mansfield's successor was at least on one occasion stirred by a pathetic consequence of the bloody law against persons found guilty of trivial theft. On the Home Circuit, having passed sentence of death on a poor woman who had stolen property to the value of forty shillings in a dwelling-house, Lord Kenyon saw the prisoner drop lifeless in the dock, just as he ceased to speak. Instantly the Chief Justice sprang to his feet, and screamed in a shrill tone, "I don't mean to hang you—do you hear?—don't you hear? Good—— I will nobody tell her that I don't mean to hang her?"

One of the humorous aspects of a repulsive subject is seen in the curiosity and fastidiousness of prisoners on trial for capital offences with regard to the professional *status* of the judges who try them. A sheep-stealer of the old bloody days liked that sentence should be passed upon him by a Chief Justice; and in our own time murderers awaiting execution sometimes grumble at the unfairness of their trials because they have been tried by judges of inferior degree. Lord Campbell mentions the case of a serjeant, who, whilst

acting as Chief Justice Abbott's deputy on the Oxford circuit, was reminded that he was "merely a temporary" by the prisoner in the dock. Being asked in the usual way if he had aught to say why sentence of death should not be passed upon him, the prisoner answered—"*Yes; I have been tried before a journeyman judge.*"

CHAPTER LXV.

HUMOROUS STORIES.

ALIKE commendable for its subtlety and inoffensive humour was the pleasantry with which young Philip Yorke (afterwards Lord Hardwicke) answered Sir Lyttleton Powys's banter on the Western Circuit. An amiable and upright, but far from brilliant judge, Sir Lyttleton had a few pet phrases—amongst them "I humbly conceive" and "Look, do you see"—which he sprinkled over his judgments and colloquial talk with ridiculous profuseness. Surprised at Yorke's sudden rise into lucrative practice, this most gentlemanlike worthy was pleased to account for the unusual success by maintaining that young Mr. Yorke must have written a law-book which had brought him early into favour with the inferior branch of the profession. "Mr. Yorke," said the venerable justice, whilst the barristers were sitting over their wine at a "judges' dinner," "I cannot well account for your having so much business, considering how short a time you have been at the bar: I humbly conceive you must have published something; for look you, do you see, there is scarcely a cause in court but you are employed in it on one side or the other. I should therefore be glad to know, Mr. Yorke, do you see, whether this be the case." Playfully denying that he possessed any celebrity as a writer on legal matters, Yorke, with an assumption of candour, admitted that he had some thoughts of lightening the labours of law-students by turning Coke upon Littleton into verse. Indeed, he confessed that he had already begun the work of versification. Not seeing the nature of the reply, Sir Lyttleton Powys treated the droll fancy as a serious project, and insisted that the author should give a specimen of the style of his contemplated work. Whereupon the young barrister—not pausing to remind a

company of lawyers of the words of the original: "Tenant in fee simple is he which hath lands or tenements to hold to him and his heirs for ever"—recited the lines—

> "He that holdeth his lands in fee
> Need neither to quake nor to quiver,
> *I humbly conceive: for look, do you see*
> They are his and his heirs' for ever."

The mimicry of voice being not less perfect than the verbal imitation, Yorke's hearers were convulsed with laughter, but so unconscious was Sir Lyttleton of the ridicule which he had incurred, that on subsequently encountering Yorke in London, he asked how "that translation of Coke upon Littleton was getting on." Sir Lyttleton died in 1732, and exactly ten years afterwards appeared the first edition of "The Reports of Sir Edward Coke, Knt., in Verse," of which the following may be taken as a sample:—

> "ACTIONS FOR SLANDER.
>
> 12. *Cromwell.*—The law which doth a pain enact,
> For slander of a peer's a general act.
>
> 14. *Cutler.*—For scand'lous articles to tie
> To good behav'our, action will not lie.
>
> * * * *
>
> 16. *Byrchley.*—That he's corrupt, will action bear,
> Discoursing of the place of an officer.
>
> *Stuckley.*—Justice of peace, if any saith
> That he hides felons, a good action li'th.
>
> 16. *Snag.*—If a person says he kill'd my wife,
> No action lies, if she be yet alive.
>
> *Davis.*—For slander action will not lie,
> Unless some temp'ral loss incur thereby.
>
> * * * *
>
> *Bittridge.*—Words adjective will action bear,
> If slander in the subsequent appear.
>
> 20. *Barham.*—Where words will yield a milder sense
> An *innuendo* shall not make th' offence."

It is likely enough that Philip Yorke's droll proposal to versify "Coke on Littleton," and the laughter occasioned by his four impromptu lines, set the versifier to work upon the reports.

Had Yorke's project been carried out, lawyers would have a

large supply of that comic but sound literature of which Sir James Burrow's Reports contain a specimen in the following poetical version of Chief Justice Pratt's memorable decision with regard to a woman of English birth, who was the widow of a foreigner:—

"A woman having settlement,
Married a man with none,
The question was, he being dead,
If what she had was gone.

"Quoth Sir John Pratt, 'The settlement
Suspended did remain,
Living the husband; but him dead
It doth revive again.'

(*Chorus of Puisne Judges.*)

"Living the husband; but him dead,
It doth revive again."

Chief Justice Pratt's decision on this point having been reversed by his successor, Chief Justice Ryder's judgment was thus reported:—

"A woman having a settlement,
Married a man with none;
He flies and leaves her destitute;
What then is to be done?

"Quoth Ryder, the Chief Justice,
'In spite of Sir John Pratt,
You'll send her to the parish
In which she was a brat.

"'*Suspension of a settlement*
Is not to be maintained;
That which she had by birth subsists
Until another's gained.'

(*Chorus of Puisne Judges.*)

"That which she had by birth subsists
Until another's gained."

Had these judgments been delivered as comically as they were reported, the hearers in Westminster Hall would have evinced their satisfaction in applause not less cordial than that which Lord Eldon in his later days used to draw from admiring listeners by recounting the particulars of the great "apple-pie case," in which he first displayed his judicial

faculties. In the early months of his married life, whilst playing the part of an Oxford don, he was required to decide in an important action brought by two under-graduates against the cook of University College. The plaintiffs declared that the cook had "sent to their rooms an apple-pie *that could not be eaten.*" The defendant pleaded that he had a remarkably fine fillet of veal in the kitchen. Having set aside this plea on grounds obvious to the legal mind, and not otherwise than manifest to unlearned laymen, Mr. John Scott ordered the apple-pie to be brought in court; but the messenger despatched to do the judge's bidding, returned with the astounding intelligence that during the progress of the litigation a party of under-graduates had actually devoured the pie—fruit and crust. Nothing but the pan was left. Judgment:—"The charge here is, that the cook has sent up an apple-pie that cannot be eaten. Now that cannot be said to have been uneatable which has been eaten; and as this apple-pie has been eaten, it was eatable. Let the cook be absolved."

But of all the judicial decisions on record, none was delivered with more comical effect than Lord Loughborough's decision not to hear a cause brought on a wager about a point in the game of "Hazard." A constant frequenter of Brookes's and White's, Lord Loughborough was well known by men of fashion to be fairly versed in the mysteries of gambling, though no evidence has ever been found in support of the charge that he was an habitual dicer. That he ever lost much by play is improbable; but the scandal-mongers of Westminster had some plausible reasons for laughing at the virtuous indignation of the spotless Alexander Wedderburn, who, whilst sitting at *Nisi Prius*, exclaimed, "Do not swear the jury in this cause, but let it be struck out of the paper. I will not try it. The administration of justice is insulted by the proposal that I should try it. To my astonishment I find that the action is brought on a wager as to the mode of playing an illegal, disreputable, and mischievous game called 'Hazard;' whether, allowing seven to be the main, and eleven to be a nick to seven, there are more ways than six of nicking seven on the dice? Courts of justice are constituted to try rights and to redress injuries, not to solve the problems of the gamesters. The

gentlemen of the jury and I may have heard of 'Hazard' as a mode of dicing by which sharpers live, and young men of family and fortune are ruined; but what do any of us know of 'seven being the main,' or 'eleven being the nick to seven?' Do we come here to be instructed in this lore, and are the unusual crowds (drawn hither, I suppose, by the novelty of the expected entertainment) to take a lesson with us in these unholy mysteries, which they are to practise in the evening in the low gaming-houses in St. James's Street, pithily called by a name which should inspire a salutary terror of entering them? Again, I say, let the cause be struck out of the paper. Move the court, if you please, that it may be restored, and if my brethren think that I do wrong in the course I now take, I hope that one of them will officiate for me here, and save me from the degradation of trying 'whether there be more than six ways of nicking seven on the dice, allowing seven to be the main and eleven to be a nick to seven'—a question, after all, admitting of no doubt, and capable of mathematical demonstration."

To realize the full effect of this harangue the reader must recall the peculiarities of Wedderburn's nervous utterance. A poor conversationalist, he was so incapable of responding to the smart repartees of the wits, that Samuel Johnson petulantly asked Foote, "What can that barrister mean by coming among us? He is not only dull himself, but the cause of dulness in others;" but he was a fluent, impetuous, incisive speaker whenever he was permitted to speak without interruption. Devoid of fancy, but overflowing with spite, he poured forth his malignant sentences with a sharp, precise, hissing accentuation that gave a fine edge to each well-chosen word, and drove it home to the adversary's most sensitive point. On the bench he declined to adopt the colloquial tone usual with judges transacting ordinary business, but retained the preciseness and venomous acrimony of the eloquence which had made him dreaded at the bar.

With equal fervour Lord Kenyon inveighed against the pernicious usage of gambling, urging that the hells of St. James's should be indicted as common nuisances. The "legal monk," as Lord Carlisle stigmatized him, for his violent denunciations

of an amusement countenanced by women of the highest fashion, even went so far as to exclaim—"If any such prosecutions are fairly brought before me, and the guilty parties are convicted, whatever may be their rank or station in the country, though they may be the first ladies in the land, they shall certainly exhibit themselves in the pillory."

The same considerations which decided Lord Loughborough not to try an action brought by a wager concerning chicken-hazard, made Lord Ellenborough decline to hear a cause where the plaintiff sought to recover money wagered on a cock-fight. "There is likewise," said Lord Ellenborough, "another principle on which I think an action on such wagers cannot be maintained. They tend to the degradation of courts of justice. It is impossible to be engaged in ludicrous inquiries of this sort consistently with that dignity which it is essential to the public welfare that a court of justice should always preserve. I will not try the plaintiff's right to recover the four guineas, which might involve questions on the weight of the cocks and the construction of their steel spurs."

It has already been remarked that in all ages the wits of Westminster Hall have delighted in puns; and it may be here added, with the exception of some twenty happy verbal freaks, the puns of lawyers have not been remarkable for their excellence. L'Estrange records that when a stone was hurled by a convict from the dock at Charles I.'s Chief Justice Richardson, and passed just over the head of the judge, who happened to be sitting at ease and lolling on his elbow, the learned man smiled, and observed to those who congratulated him on his escape, "You see now, if I had been an *upright judge* I had been slaine." Under George III. Joseph Jekyll* was at the same time the brightest wit and most shameless punster of Westminster Hall; and such pride did he take in his reputation as a punster, that after the fashion of the wits of an earlier period he was often at considerable pains to give a pun a well-

* One of Jekyll's best displays of brilliant impudence was perpetrated on a Welsh judge, who was alike notorious for his greed of office and his want of personal cleanliness. "My dear sir," Jekyll observed in his most amiable manner, to this most unamiable personage, "you have asked the minister for almost everything else, why *don't* you ask him for a piece of soap and a nail-brush?"

wrought epigrammatic setting. Bored with the long-winded speech of a prosy serjeant, he wrote on a slip of paper, which was in due course passed along the barristers' benches in the court where he was sitting—

"The serjeants are a grateful race,
Their dress and language show it;
Their purple garments come from *Tyre*,
Their arguments go to it."

When Garrow by a more skilful than successful cross-examination was endeavouring to lure a witness (an unmarried lady of advanced years) into an acknowledgment that payment of certain money in dispute had been tendered, Jekyll threw him this couplet—

"Garrow, forbear; that tough old jade
Will never prove a *tender maid.*"

So also, when Lord Eldon and Sir Arthur Pigott each made a stand in court for his favourite pronunciation of the word "lien;" Lord Eldon calling the word *lion* and Sir Arthur maintaining that it was to be pronounced like *lean*, Jekyll, with an allusion to the parsimonious arrangements of the Chancellor's kitchen, perpetrated the following *jeu d'esprit*—

"Sir Arthur, Sir Arthur, why what do you mean
By saying the Chancellor's *lion* is *lean*?
D'ye think that his kitchen's so bad as all that,
That nothing within it can ever get fat?"

By this difference concerning the pronunciation of a word the present writer is reminded of an amicable contest that occurred in Westminster Hall between Lord Campbell and a Q.C. who is still in the front rank of court-advocates. In an action brought to recover for damages done to a carriage, the learned counsel repeatedly called the vehicle in question a broug-ham, pronouncing both syllables of the word *brougham*. Whereupon Lord Campbell with considerable pomposity observed, "*Broom* is the more usual pronunciation; a carriage of the kind you mean is generally and not incorrectly called a *broom*—that pronunciation is open to no grave objection, and it has the great advantage of saving the time consumed by uttering an extra syllable." Half an hour later in the same trial Lord Campbell, alluding to a decision given in a similar action, said, "In

that case the carriage which had sustained injury was an *omnibus*——" "Pardon me, my lord," interposed the Queen's Counsel, with such promptitude that his lordship was startled into silence, "a carriage of the kind to which you draw attention is usually termed a 'buss;' that pronunciation is open to no grave objection, and it has the great advantage of saving the time consumed by uttering two extra syllables." The interruption was followed by a roar of laughter, in which Lord Campbell joined more heartily than any one else.

One of Jekyll's happy sayings was spoken at Exeter, when he defended several needlemen who were charged with raising a riot for the purpose of forcing the master-tailors to give higher wages. Whilst he was examining a witness as to the number of tailors present at the alleged riot, Lord Eldon—then Chief Justice of the Common Pleas—reminded him that three persons can make that which the law regards as a riot; whereupon the witty advocate answered, "Yes, my lord, Hale and Hawkins lay down the law as your lordship states it, and I rely on their authority; for if there must be three men to make a riot, the rioters being *tailors*, there must be nine times three present, and unless the prosecutor makes out that there were twenty-seven joining in this breach of the peace, my clients are entitled to an acquittal." On Lord Eldon inquiring whether he relied on common-law or statute-law, the counsel for the defence answered firmly, "My lord, I rely on a well-known maxim, as old as Magna Charta, *Nine Tailors make a Man.*" Finding themselves unable to reward a lawyer for so excellent a jest with an adverse verdict, the jury acquitted the prisoners. Towards the close of his career Eldon made a still better jest than this of Jekyll's concerning tailors. In 1829, when Lyndhurst was occupying the woolsack for the first time, and Eldon was longing to recover the seals, the latter presented a petition from the Tailors' Company at Glasgow against Catholic Relief. "What!" asked Lord Lyndhurst from the woolsack, in a low voice, "do the *tailors* trouble themselves about such *measures?*" Whereto, with unaccustomed quickness, the old Tory of the Tories retorted, "No wonder; you can't suppose that *tailors* like *turncoats.*"

As specimens of a kind of pleasantry becoming more scarce

every year, some of Sir George Rose's court witticisms are excellent. When Mr. Beames, the reporter, defended himself against the *friction* of passing barristers by a wooden bar, the flimsiness of which was pointed out to Sir George (then Mr. Rose), the wit answered—

"Yes,—the partition is certainly thin—
Yet thick enough, truly, the Beames within."

The same originator of happy sayings pointed to Eldon's characteristic weakness in the lines—

"Mr. Leach made a speech,
Pithy, clear, and strong;
Mr. Hart, on the other part,
Was prosy, dull, and long;
Mr. Parker made that darker
Which was dark enough without;
Mr. Bell spoke so well,
That the Chancellor said—'I doubt.'"

Far from being offended by this allusion to his notorious mental infirmity, Lord Eldon, shortly after the verses had floated into circulation, concluded one of his decisions by saying, with a significant smile, "And here *the Chancellor does not doubt.*"

Not less remarkable for precipitancy than Eldon for procrastination, Sir John Leach, Vice-Chancellor, was said to have done more mischief by excessive haste in a single term than Eldon in his whole life wrought through extreme caution. The holders of this opinion delighted to repeat the poor and not perspicuous lines—

"In equity's high court there are
Two sad extremes, 'tis clear;
Excessive slowness strikes us there,
Excessive quickness here.

"Their source, 'twixt good and evil, brings
A difficulty nice;
The first from Eldon's *virtue* springs,
The latter from his *vice*."

It is needless to remark that this attempt to gloss the Chancellor's shortcomings is an illustration of the readiness with which censors apologize for the misdeeds of eminently fortunate offenders. Whilst Eldon's procrastination and Leach's haste

were thus put in contrast, an epigram also placed the Chancellor's frailty in comparison with the tedious prolixity of the Master of the Rolls—

> "To cause delay in Lincoln's Inn
> Two diff'rent methods tend:
> His lordship's judgments ne'er begin,
> His honour's never end."

A mirth-loving judge, Justice Powell, could be as thoroughly humorous in private life as he was fearless and just upon the bench. Swift describes him as a surpassingly merry old gentleman, laughing heartily at all comic things, and at his own droll stories more than aught else. In court he could not always refrain from jocularity. For instance, when he tried Jane Wenham for witchcraft, and she assured him that she could fly, his eye twinkled as he answered, "Well, then, you may; there is no law against flying." When Fowler, Bishop of Gloucester—a thorough believer in what is now-a-days called spiritualism—was persecuting his acquaintance with silly stories about ghosts, Powell gave him a telling reproof for his credulity by describing a horrible apparition which was represented as having disturbed the narrator's rest on the previous night. At the hour of midnight, as the clocks were striking twelve, the judge was roused from his first slumber by a hideous sound. Starting up, he saw at the foot of his uncompanioned bed a figure—dark, gloomy, terrible, holding before its grim and repulsive visage a lamp that shed an uncertain light. "May Heaven have mercy on us!" tremulously ejaculated the bishop at this point of the story. The judge continued his story: "Be calm, my lord bishop; be calm. The awful part of this mysterious interview has still to be told. Nerving myself to fashion the words of inquiry, I addressed the nocturnal visitor thus—'Strange being, why hast thou come at this still hour to perturb a sinful mortal?' You understand, my lord, I said this in hollow tones—in what I may almost term a sepulchral voice." "Ay—ay," responded the bishop, with intense excitement; "go on—I implore you to go on. What did *it* answer?" "It answered in a voice not greatly different from the voice of a human creature—'Please, sir, *I am the watchman on beat, and your street-door is open.*'"

Readers will remember the use which Barham has made of this story in the Ingoldsby Legends.

As a Justice of the King's Bench, Powell had in Chief Justice Holt an associate * who could not only appreciate the wit of others, but could himself say smart things. When Lacy, the fanatic, forced his way into Holt's house in Bedford Row, the Chief Justice was equal to the occasion. "I come to you," exclaimed Lacy, "a prophet from the Lord God, who has sent me to thee, and would have thee grant a *nolle prosequi* for John Atkins, his servant, whom thou hast sent to prison." Whereto the judge answered, with proper emphasis, "Thou art a false prophet and a lying knave. If the Lord God had sent thee, it would have been to the Attorney General, for the Lord God knows that it belongeth not to the Chief Justice to grant a *nolle prosequi;* but I, as Chief Justice, can grant a warrant to commit thee to keep John Atkins company." Whereupon the false prophet, sharing the fate of many a true one, was forthwith clapped in prison.

Now that so much has been said of Thurlow's brutal sarcasms, justice demands for his memory an acknowledgment that he possessed a vein of genuine humour that could make itself felt without wounding. In his undergraduate days at Cambridge he is said to have worried the tutors of Caius with a series of disorderly pranks and impudent *escapades,* but on one occasion he unquestionably displayed at the university the quick wit that in after life rescued him from many an embarrassing position. "Sir," observed a tutor,* giving the un-

* Like Powell, Holt was the useful opponent of superstition, and in trials for witchcraft invariably directed the jury to acquit, and invariably covered the prosecutors with ridicule. Moreover, by putting in the pillory the foolish knave Hathaway, who had feigned to be bewitched in order that he might secure the death of a wretched old woman, the Chief Justice made parochial busy-bodies less ready to trump up prosecutions against aged village crones.

† To this tutor—Dean of Caius in Thurlow's undergraduate days—the churlish chancellor gave a valuable piece of Church preferment, in generous if not grateful acknowledgment of the fearlessness with which the said dean used to reprimand him, at a time when all the other dons of the college were afraid to draw upon themselves the malicious sauciness of his froward tongue. Of Talbot—one of his schoolmasters—Thurlow was also accustomed to speak with affectionate regard; but for Brett—master of a school in which Baron Alderson was educated—he preserved feelings of bitter animosity, long after he had achieved eminence. When Attorney General, Thurlow abstained from returning the bow of Mr. Brett, who encountered

ruly undergraduate a look of disapproval, "I never come to the window without seeing you idling in the court." "Sir," replied young Thurlow, imitating the don's tone, "I never come into the court without seeing you idling at the window." Years later, when he had become a great man, and John Scott was paying him assiduous court, Thurlow said, in ridicule of the mechanical awkwardness of many successful equity draughtsmen, "Jack Scott, don't you think we could invent a machine to draw bills and answers in Chancery?" Having laughed at the suggestion when it was made, Scott put away the droll thought in his memory; and when he had risen to be Attorney General reminded Lord Thurlow of it under rather awkward circumstances. Macnamara, the conveyancer, being concerned as one of the principals in a Chancery suit, Lord Thurlow advised him to submit the answer to the bill filed against him to the Attorney General. In due course the answer came under Scott's notice, when he found it so wretchedly drawn, that he advised Macnamara to have another answer drawn by some one who understood pleading. On the same day he was engaged at the bar of the House of Lords, when Lord Thurlow came to him, and said, "So I understand you don't think my friend Mac's answer will do?" "Do!" Scott replied, contemptuously. "My Lord, it wont do at all! it must have been drawn by that wooden machine which you once told me might be invented to draw bills and answers." "That's very unlucky," answered Thurlow, "and impudent too, if you had known—*that I drew the answer myself.*" The ex-Chancellor, however, maintained his good humour, although he must have winced as the most amiable pleasantry that ever passed his lips was thus turned against him.

Lord Lyndhurst used to maintain that it was one of the chief duties of a judge to render it disagreeable to counsel to talk nonsense; and in so saying, the Chancellor asserted a principle which may serve as an apology for many of the cruel sarcasms aimed at barristers struggling for subsistence by lawyers placed beyond the reach of penury. Jeffreys in his milder moments

him in a Norwich bookseller's shop. The schoolmaster observed—"Sir, surely you have not forgotten me." Whereto the old pupil frankly replied—"I am not bound to recollect every scoundrel who chooses to recollect me."

no doubt salved his conscience with the same doctrine, when he remembered his truculent abusiveness to eminent counsel, and recalled how, after elating him with a compliment, he struck down the rising junior with "Lord, sir! you must be cackling too. We told you, Mr. Bradbury, your objection was very ingenious; that must not make you troublesome; you cannot lay an egg, but you must be cackling over it." Doubtless, also, he felt it one of the chief duties of a judge to restrain attorneys from talking nonsense when—on hearing that the solicitor from whom he received his first brief had boastfully remarked, in allusion to past services, "My Lord Chancellor! I *made* him"—he exclaimed, "Well, then, I'll lay my maker by the heels," and forthwith committed his former client and patron to the Fleet prison. However much the reader may feel inclined to question the truthfulness of the popular portraits of Jeffreys; however much he may assign to party rage when he endeavours to separate the actual badness of the man from the exaggerations of his political enemies; and however much he may regard the judge's violent speeches as indications of the prevailing tone of the bar and of society, rather than of the speaker's individual peculiarities of temper—he still feels a genuine delight whenever apocryphal biography represents the bloody Chief Justice as worsted in a wordy conflict which he had provoked by overbearing speech. If he actually, as he is said to have done, interrupted the venerable Maynard by saying, "You have lost your knowledge of law; your memory, I tell you, is failing through old age," how must every hearer of the speech have exulted when Maynard quietly answered, "Yes, Sir George, I have forgotten more law than you ever learned; but allow me to say, I have not forgotten much."

On the other hand it should be remembered that Maynard was a man eminently qualified to sow violent animosities, and that he was a perpetual thorn in the flesh of the political barristers, whose principles he abhorred. A subtle and tricky man he was constantly misleading judges by citing fictitious authorities, and then smiling at their professional ignorance when they had swallowed his audacious fabrications. Moreover, the manner of his speech was sometimes as offensive as its substance was dishonest. Strafford spoke a bitter criticism not

only with regard to Maynard and Glyn, but with regard to the prevailing tone of the bar, when describing the conduct of the advocates who managed his prosecution he said: "Glynne and Maynard used me *like advocates*, but Palmer and Whitelock *like gentlemen*; and yet the latter left out nothing against me that was material to be urged against me." As a Devonshire man* Maynard is one of the many cases which may be cited against the smart saying of Serjeant Davy, who used to observe: "The further I journey towards the West the more convinced I am that the wise men come from the East." But shrewd, observant, liberal though he was in most respects, he was on one matter so far behind the spirit of the age that, blinded and ruled by an unwise sentiment, he gave his parliamentary support to an abortive measure "to prevent further building in London and the neighbourhood." In support of this measure he observed, "This building is the ruin of the gentry and ruin of religion, as leaving many good people without churches to go to. This enlarging of London makes it filled with lacqueys and pages. In St. Giles's parish scarce the fifth part come to church, and we shall have no religion at last."

* Devonshire and Cornwall have long been known as nurseries of great lawyers, but in Serjeant Davy's behalf it may be urged that East Anglia is no less proverbial for the number of its illustrious advocates and judges. Speaking of Devonshire, Fuller says—"This county seems innated with a genius to study law, none in England (Norfolk alone excepted) affording so many legal men. Cornwall, indeed, hath a familie, but Devonshire makes a feast of such, who by the practice thereof have raised great estates." Sir Vicary Gibbs, the son of an Exeter apothecary, and Sir William Follett, whose extraction was even more humble, are amongst the several recent cases by which the ancient reputation of Devonshire has been maintained in these later years. Apocryphal biography says of Vicary Gibbs—"During the three years of his pupilage, he carefully abstained from all clubs, either of a literary or social character, was a stranger to the West End and the parks, and in general emerged from his chamber only twice in the day to eat in haste and alone his half-commons of veal, and then earth himself again in the midst of precedents and reports." *Half-rations of veal!* Poor diet this for a young man who was educated at Eton! Of course the statement is to be classed amongst those romantic exaggerations which abound in biographic literature, rendering much of it well-nigh valueless. Vicary Gibbs would never have risen in his profession if this had been his customary mode of life in his student days. Intellect and perseverance, acting in conjunction with such beef-steaks and bitter beer as can be purchased at the Cock or Cheshire Cheese, may do great things; but intellect cannot persevere, and, therefore, may as well cease to be ambitious, when it is sustained by no better fare than half-rations of veal!!!

Whilst justice has suffered something in respect of dignity from the overbearing temper of judges to counsel, from collisions of the bench with the bar, and from the mutual hostility of rival advocates, she has at times sustained even greater injury from the jealousies and altercations of judges. Too often wearers of the ermine, sitting on the same bench nominally for the purpose of assisting each other, have roused the laughter of the bar, and the indignation of suitors, by their petty squabbles. "It now comes to my turn," an Irish judge observed, when it devolved on him to support the decision of one or the other of two learned coadjutors, who had stated with more fervour than courtesy altogether irreconcilable opinions,—"It now comes to my turn to declare my view of the case, and fortunately I can be brief. I agree with my brother A from the irresistible force of my brother B's arguments." Extravagant as this case may appear, the King's Bench of Westminster Hall, under Mansfield and Kenyon, witnessed several not less scandalous and comical differences. Taking thorough pleasure in his work, Lord Mansfield was not less industrious than impartial in the discharge of his judicial functions; so long as there was anything for him to learn with regard to a cause, he not only sought for it with pains but with a manifest pleasure similar to that delight in judicial work which caused the French Advocate, Cottu, to say of Mr. Justice Bayley: "Il s'amuse à juger;" but notwithstanding these good qualities, he was often culpably deficient in respect for the opinions of his subordinate coadjutors. At times a vain desire to impress on the minds of spectators that his intellect was the paramount power of the bench; at other times a personal dislike to one of his *puisnes* caused him to derogate from the dignity of his court, in cases where he was especially careful to protect the interests of suitors. With silence more disdainful than any words could have been he used to turn away from Mr. Justice Willes, at the moment when the latter expected his chief to ask his opinion; and on such occasions the indignant *puisne* seldom had the prudence and nerve to conceal his mortification. "I have not been consulted, and I will be heard!" he once shrieked forth in a paroxysm of rage caused by Mansfield's contemptuous treatment; and forty years afterwards Jeremy

Bentham, who was a witness of the insult and its effect, observed: "At this distance of time—five-and-thirty or forty years—the feminine scream issuing out of his manly frame still tingles in my ears." Mansfield's overbearing demeanour to his *puisnes* was reproduced with less dignity by his successor; but Buller, the judge who wore ermine whilst he was still in his thirty-third year, and who confessed that his "idea of heaven was to sit at Nisi Prius all day, and to play whist all night," seized the first opportunity to give Taffy Kenyon a lesson in good manners by stating, with impressive self-possession and convincing logic, the reasons which induced him to think the judgment delivered by his chief to be altogether bad in law and argument.

CHAPTER LXVI.

WITS IN "SILK" AND PUNSTERS IN "ERMINE."

WHILST Lord Camden held the chiefship of the Common Pleas, he was walking with his friend Lord Dacre on the outskirts of an Essex village, when they passed the parish stocks. "I wonder," said the Chief Justice, "whether a man in the stocks endures a punishment that is physically painful? I am inclined to think that, apart from the sense of humiliation and other mental anguish the prisoner suffers nothing, unless the populace express their satisfaction at his fate by pelting him with brick-bats." "Suppose you settle your doubts by putting your feet into the holes," rejoined Lord Dacre, carelessly. "By Jove, I will!" exclaimed the Chief Justice; and in a trice he was sitting on the ground with his feet some fifteen inches above the level of his seat, and his ancles encircled by hard wood. "Now, Dacre!" he exclaimed enthusiastically, "fasten the bolts, and leave me for ten minutes." Like a courteous host Lord Dacre complied with the whim of his guest, and having placed it beyond his power to liberate himself bade him "farewell" for ten minutes. Intending to saunter along the lane and return at the expiration of the stated period, Lord Dacre moved away, and falling into one of his customary fits of reverie soon forgot all about the stocks, his friend's freak, and his friend. In the meantime the Chief Justice went through every torture of an agonizing punishment—acute shootings along the confined limbs, aching in the feet, angry pulsations under the toes, violent cramps in the muscles and thighs, gnawing pain at the point where his person came in immediate contact with the cold ground, pins-and-

needles everywhere. Amongst the various forms of his physical discomfort, faintness, fever, giddiness, and raging thirst may be mentioned. He implored a peasant to liberate him, and the fellow answered with a shout of derision; he hailed a passing clergyman, and explained that he was not a culprit, but Lord Camden, Chief Justice of the Common Pleas and one of Lord Dacre's guests. "Ah!" observed the man of cloth, not so much answering the wretched culprit as passing judgment on his case, "mad with liquor. Yes, drunkenness is sadly on the increase; 'tis droll though for a drunkard in the stocks to imagine himself a Chief Justice!" and on he passed. A farmer's wife jogged by on her pillion, and hearing the wretched man exclaim that he should die of thirst, the good creature gave him a juicy apple, and hoped that his punishment would prove for the good of his soul. Not ten minutes, but ten hours did the Chief Justice sit in the stocks, and when at length he was carried into Lord Dacre's house he was in no humour to laugh at his own miserable plight. Not long afterwards he presided at a trial in which a workman brought an action against a magistrate who had wrongfully placed him in the stocks. The counsel for the defence happening to laugh at the statement of the plaintiff, who maintained that he had suffered intense pain during his confinement, Lord Camden leaned forwards and inquired in a whisper, "Brother, were you ever in the stocks?" "Never, my lord," answered the advocate, with a look of lively astonishment. "I have been," was the whispered reply; "and let me assure you that the agony inflicted by the stocks is—*awful!*"

Of a different sort but scarcely less intense was the pain endured by Lord Mansfield whenever a barrister pronounced a Latin word with a false quantity. "My lords," said the Scotch advocate, Crosby, at the bar of the House of Lords, "I have the honour to appear before your lordships as counsel for the Curātors." "Ugh!" groaned the Westminster Oxford law-lord, softening his reproof by an allusion to his Scotch nationality, "Curātors, Mr. Crosby, Curātors: I wish *our* countrymen would pay a little more attention to prosody." "My lord," replied Mr. Crosby, with delightful readiness and com-

posure, "I can assure you that *our* countrymen are very proud of your lordship as the greatest senātor and orātor of the present age." The barrister who made Baron Alderson shudder under his robes by applying for a "nolle prosēqui" was not equally quick at self-defence, when that judge interposed, "Stop, sir—consider that this is the last day of term, and don't make things unnecessarily long." It was Baron Alderson who, in reply to the juryman's confession that he was deaf in one ear, observed, "Then leave the box before the trial begins; for it is necessary that jurymen should *hear both sides.*"

Amongst legal wits, Lord Ellenborough enjoys a high place: and though in dealing out satire upon barristers and witnesses, and even on his judicial coadjutors, he was often needlessly severe, he seldom perpetrated a jest the force of which lay solely in its cruelty. Perhaps the most harsh and reprehensible outburst of satiric humour recorded of him is the crushing speech by which he ruined a young man for life. "The *unfortunate* client for whom it is my privilege to appear," said a young barrister, making his first essay in Westminster Hall—"the unfortunate client, my lord, for whom I appear—hem! hem!—I say, my lord, my *unfortunate client*——" Leaning forwards, and speaking in a soft, cooing voice, that was all the more derisive, because it was so gentle, Lord Ellenborough said, "You may go on, sir—so far the court is with you." One would have liked his lordship better had he sacrificed his jest to humanity, and acted as long afterwards that true gentleman, Mr. Justice Talfourd, acted, who, seeing a young barrister overpowered with nervousness, gave him time to recover himself by saying, in the kindest possible manner, "Excuse me for interrupting you—but for a minute I am not at liberty to pay you attention." Whereupon the judge took up his pen and wrote a short note to a friend. Before the note was finished, the young barrister had completely recovered his self-possession, and by an admirable speech secured a verdict for his client. A highly nervous man, he might on that day have been broken for life, like Ellenborough's victim, by mockery; but fortunate in appearing before a judge whose witty tongue knew not how to fashion unkind words, he triumphed over his temporary

weakness, and has since achieved well-deserved success in his profession. Talfourd might have made a jest for the thoughtless to laugh at; but he preferred to do an act, on which those who loved him like to think.

Of Lord Ellenborough's sarcastic speeches to counsel who consumed his time to no good purpose, and were so well known amongst solicitors, that a sharp reproof from a judge's lips could do them no serious harm, nothing can be said in the way of regret. The natural ebullitions of irritation from a giant towards men almost as strong and quite as prosperous as himself, they rouse laughter without at the same time offending the reader's generosity and love of fair play. When Preston, the great conveyancer, gravely informed the judges of the King's Bench that "an estate in fee simple was the highest estate known to the law of England," the Chief Justice did well to check the great Chancery lawyer, and say, with politest irony, "Stay, stay, Mr. Preston, let me take that down. An estate" (the judge writing as he spoke) "in fee simple is—the highest estate—known to—the law of England. Thank you, Mr. Preston! The court, sir, is much indebted to you for the information." Having inflicted on the court an unspeakably dreary oration, Preston towards the close of the day asked when it would be their lordships' pleasure to hear the remainder of his argument; whereupon Lord Ellenborough uttered a sigh of resignation, and answered, "We are bound to hear you, and we will endeavour to give you our undivided attention on Friday next; but as for *pleasure*, that, sir, has been long out of the question."

Probably mistelling an old story, and taking to himself the merit of Lord Ellenborough's reply to Preston, Sir Vicary Gibbs* (chief of the Common Pleas) used to tell his friends that Serjeant Vaughan—the serjeant who, on being subsequently raised to the bench through the influence of his elder brother, Sir Henry Halford, the court physician, was humo-

* Of Chief Justice Gibbs, Lord Campbell says—"Sir Vicary Gibbs told me that on the Western Circuit, when counsel for the plaintiff, Baron Graham was for deciding in his favour, but he insisted on being nonsuited, conscious that the law was against him, and that his client would have been put to the expense of correcting the judge's error."

rously described by the wits of Westminster Hall as a judge *by prescription*—once observed in a grandiose address to the judges of the Common Pleas, "For though our law takes cognizance of divers different estates, I may be permitted to say, without reserve or qualification of any kind, that the highest estate known to the law of England is an estate in fee simple." Whereupon Sir Vicary, according to his own account, interrupted the serjeant with an air of incredulity and astonishment. "What is your proposition, brother Vaughan? Perhaps I did not hear you rightly!" Flustered by the interruption, which completely effected its object, the serjeant explained, "My lord, I mean to contend that an estate in fee simple is *one of the highest estates* known to the law of England, that is, my lord, that it may be under certain circumstances—and sometimes is so."

Notwithstanding his high reputation for wit, Lord Ellenborough would deign to use the oldest jests. To silence a wearisome talker, he would pelt him with puns from Joe Miller; but though his missiles were of the cheapest kind, and picked from public ground, he hurled them with a force and precision that drew the applause of bystanders. Thus of Mr. Caldecott, who over and over again, with dull verbosity, had said that certain limestone quarries, like lead and copper mines, "were not rateable, because the limestone could only be reached by boring, which was matter of science," he gravely inquired, "Would you, Mr. Caldecott, have us believe that every kind of *boring* is matter of science?" With finer humour he nipped in the bud one of Randle Jackson's flowery harangues. "My lords," said the orator, with nervous intonation, "in the book of nature it is written——" "Be kind enough, Mr. Jackson," interposed Lord Ellenborough, "to mention the page from which you are about to quote." This calls to mind the ridicule which, at an earlier period of his career, he cast on Sheridan for saying at the trial of Warren Hastings, "The treasures in the Zenana of the Begum are offerings laid by the hand of piety on the altar of a saint." To this not too rhetorical statement, Edward Law, as leading counsel for Warren Hastings, replied by asking, "how the lady was to be considered a saint,

and how the camels were to be laid upon the altar?" With greater pungency, Sheridan defended himself by saying, "This is the first time in my life that I ever heard of special pleading on a metaphor, or a bill of indictment against a trope; but such is the turn of the learned gentleman's mind, that when he attempts to be humorous no jest can be found, and when serious no fact is visible."* To the last Law delighted to point the absurdities of orators who in aiming at the sublime only achieved the ridiculous. "My lords," said Mr. Gaselee, arguing that mourning coaches at a funeral were not liable to post-horse duty, "it never could have been the intention of a Christian legislature to aggravate the grief which mourners endure whilst following to the grave the remains of their dearest relatives, by compelling them at the same time to pay the horse-duty." Had Mr. Gaselee been a humorist, Lord Ellenborough would have laughed; but as the advocate was well known to have no turn for raillery, the Chief Justice gravely observed, "Mr. Gaselee, you incur danger by sailing in high sentimental latitudes."

To the surgeon in the witness-box who said, "I employ myself as a surgeon," Lord Ellenborough retorted, "But does anybody else employ you as a surgeon?" The demand to be examined *on affirmation* being preferred by a Quaker witness, whose dress was so much like the costume of an ordinary *conformist* that the officer of the court had begun to administer the usual oath, Lord Ellenborough inquired of the "friend," "Do you really mean to impose upon the court by appearing here in the disguise of a reasonable being?" Very pungent was his ejaculation at a cabinet dinner when he heard that Lord Kenyon was about to close his penurious old age by dying. "Die!—why should he die?—what would he get by that?" interposed Lord

* Robert Dallas—one of Edward Law's coadjutors in the defence of Hastings—gave another "manager" a more telling blow. Indignant with Burke for his implacable animosity to Hastings, Dallas (subsequently Chief Justice of the Common Pleas) wrote the stinging lines—

> "Oft have we wonder'd that on Irish ground
> No poisonous reptile has e'er yet been found;
> Reveal'd the secret stands of Nature's work—
> She saved her venom to produce her Burke."

Ellenborough, adding to the pile of jests by which men have endeavoured to keep a grim, unpleasant subject out of sight—a pile to which the latest *mot* was added the other day by Lord Palmerston who during his last attack of gout exclaimed, playfully, "*Die*, my dear doctor! That's the *last* thing I think of doing." Having jested about Kenyon's parsimony, as the old man lay *in extremis*, Ellenborough placed another joke of the same kind upon his coffin. Hearing that through the blunder of an illiterate undertaker the motto on Kenyon's hatchment in Lincoln's Inn Fields had been painted "*Mors Janua Vita*," instead of "Mors Janua Vitæ," he exclaimed, "Bless you, there's no mistake; Kenyon's will directed that it should be 'Vita,' so that his estate might be saved the expense of a diphthong." Capital also was his reply when Erskine urged him to accept the Great Seal. "How can you," he asked, in a tone of solemn entreaty, "wish me to accept the office of Chancellor, when you know, Erskine, that I am as ignorant of its duties as you are yourself?" At the time of uttering these words, Ellenborough was well aware that if he declined them Erskine would take the seals. Some of his puns were very poor.* For instance, his exclamation, "Cite to me the decisions of the judges of the land; not the judgments of the Chief Justice of Ely, who is fit only to *rule* a copybook,"

* The worst of them, however, was brilliant by the side of those which Lord Eldon used to make in his later years. One of his facetious sayings was—"Though backward in *accounting*, they are well-practised in *bookkeeping*." On every opportunity he aimed this speech at careless borrowers of books, "unconscious," says Lord Campbell, "of the joke which I have often heard circulated against himself, that, when Chancellor, he greatly augmented his library by borrowing books quoted at bar, and forgetting to return them." To the last Eldon was a copious and lively narrator of anecdotes, sometimes telling them admirably, but as often spoiling them by clumsy treatment. As an originator of *facetiæ* he never, notwithstanding his love of social mirth, gained much reputation. Raillery made his eyes sparkle, but he was not quick at responding to it. One of his smartest speeches was his reply to Boswell's importunate entreaties for a definition of "taste." "Well, then, Boswell, we must have an end of this. 'Taste,' according to my definition, is the judgment which Dundas, Macdonald, Anstruther, and you manifested when you determined to quit Scotland and to come to the South. You may publish this, if you please." In saying this Eldon was satisfied he had uttered an original and clever sarcasm. Having treasured it in his memory for half a century, he recorded it as a *repartee* worthy of transmission to future ages.

is a paltry jest in comparison with the joke of the Yankee sailor who squeaked through his nose, "Since Britannia ruled the waves, I guess it's a tarnation queer thing that she didn't *rule* 'em straighter. By my heart, it's a great pity she didn't leave the waves as they were, so that Coo-lumbia might have made a neat job of it."

One of the best "legal" puns on record is unanimously attributed by the gossipers of Westminster Hall to Lord Chelmsford. As Sir Frederick Thesiger he was engaged in the conduct of a cause, and objected to the irregularity of a learned serjeant who in examining his witnesses repeatedly put leading questions. "I have a right," maintained the serjeant, doggedly, "to *deal* with my witnesses as I please." "To that I offer no objection," retorted Sir Frederick; "you may *deal* as you like, but you shan't *lead*." Of the same brilliant conversationalist Mr. Grantley Berkeley has recorded a good story in 'My Life and Recollections.' Walking down St. James's Street, Lord Chelmsford was accosted by a stranger, who exclaimed, "Mr. Birch, I believe?" "If you believe that, sir, you'll believe anything," replied the ex-Chancellor, as he passed on.

The prevailing amiability of Erskine's disposition may be seen in the good-nature of his *jeux d'esprit*. Known as a wit not less than as an orator, and fully conscious of the power which his light satiric faculty gave him over juries, he was perpetually winning men's opinions by tickling their sense of humour; but though a volume might be made up of his bright sayings and inimitable drolleries, the occasions when he wounded the susceptibilities of a fellow-creature merely for the sake of a jest could be counted on ten fingers. Experiencing no mercy from his opponents, he never repaid coarseness with cruelty. In moments of the most intense excitement he was saved by thorough gentlemanliness rather than by caution from those indiscretions of speech which nervous talkers so frequently commit at the suggestion of fancy and under the spur of irritation.

When Thelwall, instead of regarding his advocate with grateful silence, insisted on interrupting him with vexatious remarks and impertinent criticisms, Erskine neither threw up

his brief nor lost his temper, but retorted with an innocent flash of merriment. To a slip of paper on which the prisoner had written, "I'll be hanged if I don't plead my own cause," he contented himself with returning answer, "You'll be hanged if you do." Some of his puns would have been bad had they come from the lips of any other man; but he uttered them with such spirit and with such an appearance of irrepressible gaiety of heart, that they were irresistible to hearers accustomed to hear good things—to hearers moreover who would gladly have persuaded themselves that the people's advocate instead of being a man of genius was a compound of buffoon and demagogue. His *mots* were often excellent, but it was the tone and joyous animation of the speaker that gave them their charm. Mr. Maylem of Ramsgate having observed that he was ordered by his physician not to bathe, Erskine remarked, "Then you are *malum prohibitum*." "But my wife *is* permitted to bathe," continued the valetudinarian, prosing on without noticing the interruption. "Exactly," the wit interposed; "so we may speak of her as *malum in se*." From an ordinary companion this would have been poor pleasantry; but spoken by Erskine's voice, and pointed by his smile and laughter, the puns were better than physic. It is said that in his later years, when his habitual loquaciousness occasionally sunk into garrulity, he used to repeat his jests with imprudent frequency, shamelessly giving his companions the same pun with each course of a long dinner. There is a story that after his retirement from public life he used morning after morning to waylay visitors on their road through the garden to his house, and, pointing to his horticultural attire and the spade in his hand, assure them that he was "enjoying his otium cum *digging a tatie*." Indeed the tradition lives that before his fall from the woolsack, pert juniors used to lay bets as to the number of times he would fire off a favourite old pun in the course of a sitting in the Court of Chancery, and that wily leaders habitually strove to catch his favour by giving him opportunities for facetious interruptions during their arguments. If such traditions be truthful, it is no matter for surprise that Erskine's court-jokes have come down to us with so many variations. For instance, it is re-

corded with much circumstantiality that on circuit, accosting a junior who had lost his portmanteau from the back of a post-chaise, he said, with mock gravity, "Young gentleman, henceforth imitate the elephant, the wisest of animals, who always *carries his trunk before him;*" and on equally good authority it is stated that when Polito, the keeper of the Exeter 'Change Menagerie, met with a similar accident and brought an action for damages against the proprietor of the coach from the hind-boot of which his property had disappeared, Erskine speaking for the defence told the jury that they would not be justified in giving a verdict favourable to the man, who, though he actually possessed an elephant, had neglected to imitate its prudent example and carry his trunk before him.

As a *littérateur* Erskine met with meagre success; but some of his squibs and epigrams are greatly above the ordinary level of "*vers de société.*" For instance, this is his:—

"De Quodam Rege.

"I may not do right, though I ne'er can do wrong;
I never can die, though I may not live long;
My jowl it is purple, my head it is fat—
Come, riddle my riddle. What is it? *What? What?*"

The liveliest illustrations of Erskine's proverbial egotism are the squibs of political caricaturists; and from their humorous exaggerations it is difficult to make a correct estimate of the lengths of absurdity to which his intellectual vanity and self-consciousness sometimes carried him. From what is known of his disposition it seems probable that the sarcasms aimed by public writers at his infirmity inclined him to justify their attacks rather than to disprove them by his subsequent demeanour, and that some of his most extravagant outbursts of self-assertion were designed in a spirit of bravado and reckless good-nature to increase the laughter which satirists had raised against him. However this may be, his conduct drew upon him blows that would have ruffled the composure of any less self-complacent or less amiable man. The Tory prints habitually spoke of him as Counsellor Ego whilst he was at the bar; and when it was known that he had accepted the seals,

the opposition journals announced that he would enter the house as "Baron Ego, of Eye, in the county of Suffolk." Another of his nicknames was *Lord Clackmannan;* and Cobbett published the following notice of an harangue made by the fluent advocate in the House of Commons:—"Mr. Erskine delivered a most animated speech in the House of Commons on the causes and consequences of the late war, which lasted thirteen hours, eighteen minutes, and a second, by Mr. John Nichols' stop watch. Mr. Erskine closed his speech with a dignified climax: 'I was born free, and, by G—d, I'll remain so!'—[A loud cry of '*Hear! hear!*' in the gallery, in which were citizens Tallien and Barrère]. On Monday three weeks we shall have the extreme satisfaction of laying before the public a brief analysis of the above speech, our letter-founder having entered into an engagement to furnish a fresh fount of I's."*

From the days of Wriothesley, who may be regarded as the most conspicuous and unquestionable instance of judicial in-

* In the "Anti-Jacobin," Canning, in the mock report of an imaginary speech, represented Erskine as addressing the "Whig Club" thus:—"For his part he should only say that, having been, as he had been, both a soldier and sailor, if it had been his fortune to have stood in either of these relations to the Directory,—as a man and a major-general he should not have scrupled to direct his artillery against the national representatives:—as a naval officer he would undoubtedly have undertaken for the removal of the exiled deputies; admitting the exigency, under all its relations, as it appeared to him to exist, and the then circumstances of the times, with all their bearings and dependencies, branching out into an infinity of collateral considerations and involving in each a variety of objects, political, physical, and moral; and these, again, under their distinct and separate heads, ramifying into endless subdivisions, which it was foreign to his purpose to consider, Mr. Erskine concluded by recapitulating, in a strain of agonizing and impressive eloquence, the several more prominent heads of his speech; he had been a soldier and a sailor, and had a son at Winchester school,—he had been called by special retainers, during the summer, into many different and distant parts of the country—travelling chiefly in post-chaises. He felt himself called upon to declare that his poor faculties were at the service of his country—of the free and enlightened part of it at least. He stood there as a man—he stood in the eye, indeed, in the hand of God—to whom (in the presence of the company and the waiters) he solemnly appealed. He was of noble, perhaps royal, blood—he had a house at Hampstead—was convinced of the necessity of a thorough and radical reform. His pamphlets had gone through thirty editions, skipping alternately the odd and even numbers. He loved the Constitution, to which he would cling and grapple—and he was clothed with the infirmities of man's nature."

competency in the annals of English lawyers, the multitudes have always delighted in stories that illustrate the ignorance and incapacity of men who are presumed to possess, by right of their office, an extraordinary share of knowledge and wisdom. What law-student does not rub his hands as he reads of Lord St. John's trouble during term whilst he held the seals, and of the impatience with which he looked forwards to the long vacation, when he would not be required to look wise and speak authoritatively about matters concerning which he was totally ignorant. Delicious are the stories of Francis Bacon's clerical successor, who endeavoured to get up a *quantum suff.* of Chancery law by falling on his knees and asking enlightenment of Heaven. Gloomily comical are the anecdotes of Chief Justice Fleming, whose most famous and disastrous blunder was his judgment in Bates's case. Great fun may be gathered from the tales that exemplify the ignorance of law which characterized the military, and also the non-military laymen, who helped to take care of the seals during the civil troubles of the seventeenth century. Capital is Roger North's picture of Bob Wright's ludicrous shiftlessness whenever the influence of his powerful relations brought the loquacious, handsome, plausible fellow a piece of business. "He was a comely fellow," says Roger North, speaking of the Chief Justice Wright's earlier days, "airy and flourishing both in his habits and way of living; and his relation Wren (being a powerful man in those parts) set him in credit with the country; but withal, he was so poor a lawyer that he used to bring such cases as came to him to his friend Mr. North, and he wrote the opinion on the paper, and the lawyer copied it, and signed under the case as if it had been his own. It ran so low with him that when Mr. North was at London he sent up his cases to him, and had opinions returned by the post; and, in the meantime he put off his clients on pretence of taking the matter into serious consideration." Perhaps some readers of this page can point to juniors of the present date whose professional incapacity closely resembles the incompetence of this gay young barrister of Charles II.'s time. Laughter again rises at the thought of Lord Chancellor

Bathurst and the judicial perplexities and blunders which caused Sir Charles Williams to class him with those who

> "Were cursed and stigmatized by power,
> And rais'd to be expos'd."

Much more than an average or altogether desirable amount of amiability has fallen to the reader who can refrain from a malicious smile, when he is informed by reliable history that Lord Loughborough (no mean lawyer or inefficient judge) gave utterance to so much bad law, as Chairman of Quarter Sessions in canny Yorkshire, that when on appeal his decisions were reversed with many polite expressions of *sincere* regret by the King's Bench, all Westminster Hall laughed in concert at the mistakes of the sagacious Chief of the Common Pleas.

But no lawyer, brilliant or dull, has been more widely ridiculed for incompetence than Erskine. Sir Causticus Witherett, being asked some years since why a certain Chancellor, unjustly accused of intellectual dimness by his political adversaries and by the uninformed public, preferred his seat amongst the barons to his official place on the woolsack, is said to have replied: "The Lord Chancellor usually takes his seat amongst the peers whenever he can do so with propriety, because he is a highly nervous man, and when he is on the woolsack, he is apt to be frightened at finding himself all alone—*in the dark.*" As soon as Erskine was mentioned as a likely person to be Lord Chancellor, rumours began to circulate concerning his total unfitness for the office; and no sooner had he mounted the woolsack than the wits declared him to be alone and in the dark. Lord Ellenborough's sarcasm was widely repeated, and gave the cue to the advocate's detractors, who had little difficulty in persuading the public that any intelligent law-clerk would make as good a Chancellor as Thomas Erskine. With less discretion than good-humour Erskine gave countenance to the representations of his enemies by ridiculing his own unfitness for the office. During the interval between his appointment and his first appearance as judge in the Court of Chancery, he made a jocose pretence of "reading up" for his new duties; and whimsically exaggerating his deficiencies, he represented him-

self as studying books with which raw students have some degree of familiarity. Caught with "Cruise's Digest" of the laws relating to real property, open in his hand, he observed to the visitor who had interrupted his studies, "You see, I am taking a little from my *cruise* daily, without any prospect of coming to the end of it."

It would therefore have been surprising if the public had refused credence to malicious fabrications which were well seasoned to gratify lovers of the humorous. Throughout his tenure of office—which was marked by no flagrant exhibitions of inefficiency on his part, but was on the contrary characterized by conscientious attention to the public interest, and by exquisite courtesy to the bar and all officers of the court—he was believed by "society" to be as ignorant as a post of all matters transacted in his court; and twelve years after his resignation of the seals he was informed in a very droll manner that the world still found amusement in believing the inventions of his enemies. In the autumn of 1819 two gentlemen of the United States having differed in opinion concerning his incompetence in the Court of Chancery—the one of them maintaining that the greater number of his decrees had been reversed, and the other maintaining that so many of his decisions had not endured reversal—the dispute gave rise to a bet of three dozen of port. With comical bad taste one of the parties to the bet—the one who believed that the Chancellor's judgments had been thus frequently upset—wrote to Erskine for information on the point. Instead of giving the answer which his correspondent desired, Erskine informed him in the following terms that he had lost his wine:—

"Upper Berkeley Street, Nov. 13, 1819.

"SIR,—I certainly was appointed Chancellor under the administration in which Mr. Fox was Secretary of State, in 1806, and could have been Chancellor under no administration in which he had not a post; nor would have accepted without him any office whatsoever. I believe the administration was said, by all the *Blockheads*, to be made up of all the *Talents*, in the country.

"But you have certainly lost your bet on the subject of my decrees. None of them were appealed against, except one, upon a branch of Mr. Thellusson's will—but it was affirmed without a dissentient voice, on the motion of Lord Eldon, then and now Lord Chancellor. If you think I was no lawyer, you may continue to think so. It is plain you are no lawyer yourself; but I wish every man to retain his opinion, though at the cost of three dozen of port.

"Your humble servant,

"ERSKINE."

"To save you from spending your money on bets which you are sure to lose, remember, that no man can be a great advocate who is no lawyer. The thing is impossible."

Of the many good stories current about chiefs of the law who are still alive the present writer, for obvious reasons, abstains from taking notice; but one humorous anecdote concerning a living judge may with propriety be inserted in these pages, since it fell from his own lips when he was making a speech from the chair at a public dinner. Between sixty-five and seventy years from the present time, when Sir Frederick Pollock was a boy at St. Paul's school, he drew upon himself the displeasure of Dr. Roberts, the somewhat irascible headmaster of the school, who frankly told Sir Frederick's father, "Sir, you'll live to see that boy of yours hanged." Years afterwards, when the boy of whom this dismal prophecy was made had distinguished himself at Cambridge and the bar, Dr. Roberts meeting Sir Frederick's mother in society overwhelmed her with congratulations upon her son's success, and fortunately oblivious of his former misunderstanding with his pupil, concluded his polite speeches by saying—"Ah! madam, I always said he'd fill an *elevated* situation." Told by the venerable judge at a recent dinner of "Old Paulines," this story was very effective.

Let this chapter, in which smart and acrimonious speeches have been gathered from many sources, close with a lawyer's testimony to the moral qualities of his brethren. In the garden of Clement's Inn may still be seen the statue of a negro, sup-

porting a sun-dial, upon which work of art a legal wit inscribed the following lines:—

"In vain, poor sable son of woe,
Thou seek'st the tender tear;
From thee in vain with pangs they flow,
For mercy dwells not here.

"From cannibals thou fled'st in vain;
Lawyers less quarter give;
The *first* wont eat you till you're *slain*,
The *last* will do't *alive*."

Unfortunately these lines have been obliterated. The authorities of the inn should cause them to be replaced,—in justice to the poet and the profession.

CHAPTER LXVII.

WITNESSES.

IN the days when Mr. Davenport Hill, the Recorder of Birmingham, made a professional reputation for himself in the committee-rooms of the Houses of Parliament, he had many a sharp tussle with one of those venal witnesses who, during the period of excitement that terminated in the disastrous railway panic, were ready to give scientific evidence on engineering questions, with less regard to truth than to the interests of the persons who paid for their evidence. An engineer and a dexterous knave, this witness spent his days in swearing in one committee-room that black was white, and in another that green was red; it was known that he spoke merely for the sake of his ten guineas a day, and that his most veracious statements always contained an alloy of falsehood; but still—by the cleverness with which he could mystify country gentlemen, men of business, and non-mathematical barristers in the course of a morning's cross-examination—the man was dreaded by his opponents, and was *fee-d* to lie by those who were best qualified to expose his ingenious misrepresentations. Having by mendacious evidence gravely injured a cause in which Mr. Hill was interested as counsel, and Mr. Tite, the eminent architect, and present member for Bath, was concerned as a projector, he was struck with apoplexy and died—before he could complete the mischief which he had so adroitly begun. Under the circumstances, his sudden withdrawal from the world was not an occasion for universal regret. "Well, Hill, have you heard the news?" inquired Mr. Tite of the barrister, whom he encountered in Middle Temple Lane on

the morning after the engineer's death. "Have you heard that ——— died yesterday of apoplexy?" "I can't say," was the rejoinder, "that I shall shed many tears for his loss. He was an arrant scoundrel." "Come, come," replied the architect, charitably, "you have always been too hard on that man. He was by no means so bad a fellow as you would make him out. I do verily believe that in the whole course of his life that man never told a lie—*out of the witness-box.*" Strange to say, this comical testimony to character was quite justified by the fact. This man, who lied in public as a matter of business, was punctiliously honourable in private life.

From time immemorial, "practice," if not legal practice, has recognised two principal ways of dealing with dangerous witnesses—enjoining the suitor to tamper with them before coming into court; and in cases where they have proved insensible to "treatment," to badger them with insulting questions as soon as they show themselves in the witness-box. Of the simplest method of tampering with witnesses an instance is found in a case which occurred while Sir Edward Coke was Chief Justice of the King's Bench. Loitering about Westminster Hall, one of the parties in an action stumbled upon the witness whose temporary withdrawal from the ways of men he was most anxious to effect. With a perfect perception of the proper use of hospitality, he accosted this witness (a staring, open-mouthed countryman) with suitable professions of friendliness, and carrying him into an adjacent tavern, set him down before a bottle of wine. As soon as the sack had begun to quicken his guest's circulation, the crafty fellow hastened into court with the intelligence that the witness, whom he had left drinking in a room not two hundred yards distant, was in a fit and lying at death's door. The court being asked to wait, the impudent rascal protested that to wait would be useless; and the Chief Justice, taking his view of the case, proceeded to give judgment without hearing the most important evidence in the cause.

In badgering a witness with noisy derision, no barrister of Charles II.'s time could surpass George Jeffreys; but on more than one occasion that gentleman, in his most overbearing

moments, met with his master in the witness whom he meant to brow-beat. "You fellow in the leathern doublet," he is said to have exclaimed to a countryman whom he was about to cross-examine, "pray, what are you paid for swearing?" "God bless you, sir, and make you an honest man," answered the farmer, looking the barrister full in the face, and speaking with a voice of hearty good-humour; "if you had no more for lying than I have for swearing, you would wear a leather doublet as well as I."

Sometimes Erskine's treatment of witnesses was very jocular, and sometimes very unfair; but his jocoseness was usually so distinct from mere flippant derisiveness, and his unfairness was redeemed by such delicacy of wit and courtesy of manner, that his most malicious *jeux d'esprit* seldom raised the anger of the witnesses at whom they were aimed. A religious enthusiast objecting to be sworn in the usual manner, but stating that though he would not "kiss the book," he would "hold up his hand" and swear, Erskine asked him to give his reason for preferring so eccentric a way to the ordinary mode of giving testimony. "It is written in the book of Revelations," answered the man, "that the angel standing on the sea *held up his hand.*" "But that does not apply to your case," urged the advocate; "for in the first place, you are no angel; secondly, you cannot tell how the angel would have sworn if he had stood on dry ground, as you do." Not shaken by this reply, which cannot be called unfair, and which, notwithstanding its jocoseness, was exactly the answer which the gravest divine would have made to such scruples, the witness persisted in his position; and on being permitted to give evidence in his own peculiar way, he had enough influence with the jury to induce them to give a verdict adverse to Erskine's wishes.

Less fair but more successful was Erskine's treatment of the commercial traveller, who appeared in the witness-box dressed in the height of fashion, and wearing a starched white necktie folded with the "Brummell fold." In an instant reading the character of the man, on whom he had never before set eyes, and knowing how necessary it was to put him in a state of extreme agitation and confusion, before touching on the facts

concerning which he had come to give evidence, Erskine rose, surveyed the coxcomb, and said, with an air of careless amusement, "You were born and bred in Manchester, *I perceive.*" Greatly astonished at this opening remark, the man answered, nervously, that he was "a Manchester man—born and bred in Manchester." "Exactly," observed Erskine, in a conversational tone, and as though he were imparting information to a personal friend—"exactly so; I knew it from the absurd tie of your neckcloth." The roars of laughter—coming from every person in court, with the single exception of the unfortunate witness—which followed this rejoinder, so completely effected the speaker's purpose that the confounded bagman could not tell his right hand from his left. Equally effective was Erskine's sharp question, put quickly to the witness who, in an action for payment of a tailor's bill, swore that a certain dress-coat was badly made—one of the sleeves being longer than the other. "You will," said Erskine, slowly, having risen to cross-examine, "swear—that one of the sleeves was—longer—than the other?" *Witness.* "I do swear it." *Erskine,* quickly, and with a flash of indignation, "Then, sir, I am to understand that you positively deny that one of the sleeves was *shorter* than the other?" Startled into a self-contradiction by the suddenness and impetuosity of this thrust, the witness said, "I do deny it." *Erskine,* raising his voice as the tumultuous laughter died away, "Thank you, sir; I don't want to trouble you with another question." One of Erskine's smartest puns referred to a question of evidence. "A case," he observed, in a speech made during his later years, "being laid before me by my veteran friend, the Duke of Queensbury —better known as 'old Q'—as to whether he could sue a tradesman for breach of contract about the painting of his house; and the evidence being totally insufficient to support the case, I wrote thus:—'I am of opinion that this action will not *lie,* unless the witnesses *do.*'" It is worthy of notice that this wittieism was but a revival (with a modification) of the pun attributed to Lord Chancellor Hatton in Bacon's "Apophthegmes."

In the wilder districts of the United States comic annalists

aver it is still usual for young barristers to create a salutary impression on the minds of jurymen by slaying with pistol or bowie-knife the foremen of juries that venture to differ from them in opinion; and in a certain volume of not altogether reliable history, the present writer has read of a barrister at the bar of one of our Australian colonies who secured the acquittal of a notorious murderer by concluding his speech thus: "At great length, gentlemen of the jury, I have stated the reasons which cause me to believe in the prisoner's innocence, and to regard him as a personal friend. Gentlemen, the prisoner in the dock *is* my very dear personal friend: and if he falls by your hands I will avenge his honour and my loss. As a gentleman of an ould Irish family, who can snuff candles with a revolver at twelve paces, I call upon you to place my friend right in the eyes of society. I leave the case in your hands, feeling satisfied that you will not accuse me of employing the language of menace, when I have done no more than hint at some of the natural consequences of a verdict adverse to my conscientious opinion."

In this country many years have elapsed since duels have taken place betwixt gentlemen of the long robe, or between barristers and witnesses in consequence of words uttered in the heat of forensic strife; but in the last century, and in the opening years of the present, it was no very rare occurrence for a barrister to be called upon for "satisfaction" by a person whom he had insulted in the course of his professional duty. During George II.'s reign, young Robert Henley so mercilessly badgered one Zephaniah Reeve, whom he had occasion to cross-examine in a trial at Bristol, that the infuriated witness—Quaker and peace-loving merchant though he was—sent his persecutor a challenge immediately upon leaving court. Rather than incur the ridicule of "going out with a Quaker," and the sin of shooting at a man whom he had actually treated with unjustifiable freedom, Henley retreated from an embarrassing position by making a handsome apology; and years afterwards, when he had risen to the woolsack, he entertained his old acquaintance, Zephaniah Reeve, at a fashionable dinner-party, when the assembled guests were greatly amused by the Lord

Chancellor's account of the commencement of his acquaintance with his Quaker friend.

Between thirty and forty years later Thurlow was "called out" by the Duke of Hamilton's agent, Mr. Andrew Stewart, whom he had grievously offended by his conduct of the Great Douglas Case. The challenge reached the barrister at the close of the day on which he opened his argument before the Lords, and it asked for a meeting on the following morning. As Thurlow did not care to shelter himself behind his professional privilege, but at the same time did not wish to be shot till he had said all he thought concerning a memorable cause, he replied, that "Mr. Stewart should have the desired meeting, but not until the hearing of the appeal was concluded." On the following Jan. 14, 1769-1770, Thurlow and his adversary met in Hyde Park. On his way to the appointed place, the barrister stopped at a tavern near Hyde Park Corner, and "ate an enormous breakfast," after which preparation for business, he hastened to the field of action. Accounts agree in saying that he behaved well upon the ground. Long after the bloodless *rencontre*, the Scotch agent, not a little proud of his "affair" with a future Lord Chancellor, said, "Mr. Thurlow advanced and stood up to me like an elephant." But the elephant and the mouse parted without hurting each other; the encounter being thus faithfully described in the 'Scots' Magazine.' "On Sunday morning, January 14, the parties met with swords and pistols, in Hyde Park, one of them having for his second his brother, Colonel S——, and the other having for his Mr. L——, member for a city in Kent. Having discharged pistols, at ten yards' distance, without effect, they drew their swords, but the seconds interposed, and put an end to the affair."

One of the best "Northern Circuit stories" pinned upon Lord Eldon relates to a challenge which an indignant suitor is said to have sent to Law and John Scott, demanding reparation for insults offered by them to the challenger. In a trial at York that had arisen from a horse-race, it was stated in evidence that one of the conditions of the race required that "each horse should be ridden by a gentleman." The race having been run, the holders refused to pay the stakes to the winner on the

ground that he was not a gentleman; whereupon the equestrian whose gentility was thus called in question brought an action for the money. After a very humorous inquiry, which terminated in a verdict for the defendants, the plaintiff *was said* to have challenged the defendant's counsel, Messrs. Scott and Law, for maintaining that he was no gentleman; to which invitation, it also averred, reply was made that the challengees "could not think of fighting one who had been found *no gentleman* by the solemn verdict of twelve of his countrymen." Inquiry, however, has deprived this delicious story of much of its piquancy. Eldon had no part in the offence; and Law, who was the sole utterer of the obnoxious words, received no invitation to fight. A writer in the 'Law Magazine,' supposed to be Lord Brougham, says, "This is a great mistake. The person in question blustered and talked big, and threatened to call out Mr. Law, who led the cause, and could alone have said the offensive words. That gallant individual put off his journey to Durham for half a day, and walked about, booted and spurred, before the coffee-house, the most public place in York, ready to repel force, if offered, by force—because personal chastisement had also been threatened. No message was sent, and no attempt was made to provoke a breach of the peace. It is very possible Lord Eldon may have said, and Lord Ellenborough too, that they were not bound to treat one in such a predicament as a gentleman, and hence the story has arisen in the lady's mind. The fact was as well known on the Northern Circuit as the answer of a witness to a question, whether the party had a right by his circumstances to keep a pack of fox-hounds; 'No more right than I to keep a pack of archbishops.'"

To be classified with the foregoing anecdote is the story concerning Curran, who is said to have received a call, before he left his bed one morning, from a gentleman whom he had cross-examined with needless cruelty and unjustifiable insolence on the previous day. "Sir!" said this irate man, presenting himself in Curran's bed-room, and rousing the barrister from slumber to a consciousness that he was in a very awkward position, "I am the gintleman whom you insulted yesterday in His Majesty's court of justice, in the presence of the whole

county, and I am here to thrash you soundly!" Thus speaking the Herculean intruder waved a horsewhip over the recumbent lawyer. "You don't mean to strike a man when he is lying down?" inquired Curran. "No, bedad; I'll just wait till you've got out of bed, and then I'll give it to you sharp and fast!" Curran's eye twinkled mischievously as he rejoined: "If that's the case, by —— I'll lie here all day." So tickled was the visitor with this humorous announcement, that he dropped his horsewhip, and dismissing anger with a hearty roar of laughter, asked the counsellor to shake hands with him. Of the genuineness of this piquant story the present writer is compelled to entertain some unpleasant doubts, since he has found it in books, with numerous minor variations, told of half a dozen different Irish barristers.

Amongst droll anecdotes concerning witnesses may be placed those which exemplify the difficulty which a judge often experiences in understanding the provincialisms of provincial, and the nautical technicalities of sea-faring witnesses. In the December of 1663, Pepys was present at a trial in Guildhall concerning the fraud of a merchant-adventurer, who having insured his vessel for 2400*l.*, when, together with her cargo, she was worth no more than 500*l.*, had endeavoured to wreck her off the French coast. From Pepys's record it appears that this was a novel piece of rascality at that time, and consequently created lively sensation in general society, as well as in legal and commercial coteries. "All the great counsel in the kingdom" were employed in the cause; and though maritime causes, then as now, usually involved much hard swearing, the case was notable for the prodigious amount of perjury which it elicited. For the most part the witnesses were sailors, who, besides swearing with stolid indifference to truth, caused much amusement by the incoherence of their statements and by their free use of nautical expressions which were quite unintelligible to Chief Justice (Sir Robert) Hyde. "It was," says Pepys, "pleasant to see what mad sort of testimonys the seamen did give, and could not be got to speak in order; and then their terms such as the judge could not understand. And to hear how sillily the counsel and judge

would speak as to the terms necessary in the matter, would make one laugh; and above all a Frenchman, that was forced to speak in French, and took an English oath he did not understand, and had an interpreter sworn to tell us what he said, which was the best testimony of all." A century later Lord Mansfield was presiding at a trial consequent upon a collision of two ships at sea, when a common sailor, whilst giving testimony, said, "At the time I was standing abaft the binnacle;" whereupon his lordship, with a proper desire to master the facts of the case, observed, "Stay, stay a minute, witness: you say that at the time in question you were *standing abaft the binnacle;* now tell me, where is 'abaft the binnacle?'" This was too much for the gravity of "the salt," who immediately before climbing into the witness-box had taken a copious draught of neat rum. Removing his eyes from the bench, and turning round upon the crowded court with an expression of intense amusement, he exclaimed at the top of his voice, "He's a pretty fellow for a judge! Bless my jolly old eyes!—[the reader may substitute a familiar form of 'imprecation on eye-sight']—you have got a pretty sort of a land-lubber for a judge! He wants me to tell him where *abaft the binnacle* is!" Not less amused than the witness, Lord Mansfield rejoined, "Well, my friend, you must fit me for my office by telling me where *abaft the binnacle* is; you've already shown me the meaning of *half-seas over!*"

With less good-humour the same Chief Justice resented Dr. Brocklesby's ill-timed familiarity. The friend of Johnson and Burke, the physician who came to the relief of Chatham when he fell senseless in the House of Peers, and the intimate companion of many illustrious contemporaries, Dr. Brocklesby was not more valued by the world for his professional attainments than prized for his social qualities. No man was more generally known in the various grades and coteries of London life; and amongst those who delighted to listen to his stories over a bottle of wine was William Murray. On one occasion, however, the doctor, whilst standing in the witness-box of the Court of King's Bench, incurred the Chief Justice's displeasure by referring to their private intercourse. Some accounts say that the medical witness merely nodded to the Chief

Justice, as he might have done with propriety had they been taking seats at a convivial table; other accounts, with less appearance of probability, maintain that in a voice audible to the bar, he reminded the Chief Justice of certain jolly hours which they had spent together during the previous evening. Anyhow, Lord Mansfield was hurt, and showed his resentment in his "summing-up" by thus addressing the jury: "The next witness is one *R*ocklesby, or *B*rocklesby—*B*rocklesby or *R*ocklesby, I am not sure which; and first, *he swears that he is a physician.*"

On one occasion Lord Mansfield covered his retreat from an untenable position with a sparkling pleasantry. An old witness named *Elm* having given his evidence with remarkable clearness, although he was more than eighty years of age, Lord Mansfield examined him as to his habitual mode of living, and found that he had throughout life been an early riser and a singularly temperate man. "Ay," observed the Chief Justice, in a tone of approval, "I have always found that without temperance and early habits, longevity is never attained." The next witness, the *elder* brother of this model of temperance, was then called, and he almost surpassed his brother as an intelligent and clear-headed utterer of evidence. "I suppose," observed Lord Mansfield, "that you also are an early riser?" "No, my lord," answered the veteran, stoutly; "I like my bed at all hours, and special-*lie* I like it of a morning." "Ah; but, like your brother, you are a very temperate man?" quickly asked the judge, looking out anxiously for the safety of the more important part of his theory. "My lord," responded this ancient Elm, disdaining to plead guilty to a charge of habitual sobriety, "I am a very old man, and my memory is as clear as a bell, but I can't remember the night when I've gone to bed without being more or less drunk." Lord Mansfield was silent. "Ah, my lord," Mr. Dunning exclaimed, "this old man's case supports a theory upheld by many persons, that habitual intemperance is favourable to longevity." "No, no," replied the Chief Justice, with a smile, "this old man and his brother merely teach us what every carpenter knows—that Elm, whether it be wet or dry, is a very tough wood."

Few stories relating to witnesses are more laughable than that which describes the mathematical process by which Mr. Baron Perrot arrived at the value of certain conflicting evidence. "Gentlemen of the jury," this judge is reported to have said, in summing up the evidence in a trial where the witnesses had sworn with noble tenacity of purpose, "there are fifteen witnesses who swear that the watercourse used to flow in a ditch on the north side of the hedge. On the other hand, gentlemen, there are nine witnesses who swear that the watercourse used to flow on the south side of the hedge. Now, gentlemen, if you subtract nine from fifteen, there remain six witnesses wholly uncontradicted; and I recommend you to give your verdict for the party who called those six witnesses."

Whichever of the half-dozen ways in which it is told be accepted as the right one, the following story exemplifies the difficulty which occasionally arises in courts of justice, when witnesses use provincial terms with which the judge is not familiar. Mr. William Russel, in past days, deputy-surveyor of "canny Newcastle," and a genuine Northumbrian in dialect, brogue, and shrewdness, was giving his evidence at an important trial in the Newcastle courthouse, when he said—"As I was going along the quay, I saw a hubbleshew coming out of a chare-foot." Not aware that on Tyne-side the word "hubbleshew" meant "a concourse of riotous persons;" that the narrow alleys or lanes of Newcastle "old town" were called by their inhabitants "chares;" and that the lower end of each alley, where it opened upon quay-side, was termed a "chare-foot;" the judge, seeing only one part of the puzzle, inquired the meaning of the word "hubbleshew." "A crowd of disorderly persons," answered the deputy-surveyor. "And you mean to say," inquired the judge of assize, with a voice and look of surprise, "that you saw a crowd of people come out of a chair-foot?" "I do, my lord," responded the witness. "Gentlemen of the jury," said his lordship, turning to the 'twelve good men in the box,' "it must be needless for me to inform you—*that this witness is insane!*"

The report of a trial which occurred at Newcastle Assizes towards the close of the last century gives the following succession of questions and answers:—*Barrister.*—"What is your

name?" *Witness.*—"Adam, sir—Adam Thompson." *Barrister.*—"Where do you live?" *Witness.*—"In Paradise." *Barrister* (with facetious tone).—"And pray, Mr. Adam, how long have you dwelt in Paradise?" *Witness.*—"Ever since the Flood?" Paradise is the name of a village in the immediate vicinity of Newcastle; and "the flood" referred to by the witness was the inundation (memorable in local annals) of the Tyne, which in the year 1771 swept away the old Tyne Bridge.

CHAPTER LXVIII.

CIRCUITEERS.

THE sociability of circuit-life in the days when roads were bad, when counties were sparsely populated, and when highwaymen infested the lines of communication between all important places, was favourable to the disposition of barristers who were quick at seizing and clever at illustrating the humorous side of ordinary events. Exposed to some of the discomforts, if not all the dangers,* of travel; required to ride over black and cheerless tracts of moor and heath; now belated in marshy districts, and now exchanging shots with gentlemen of the road; sleeping, as luck favoured them, in way-side taverns, country mansions, or the superior hotels of provincial towns,—the circuiteers of olden time found their advantage in cultivating social hilarity and establishing an etiquette that encouraged good-fellowship in their itinerant societies. At an early date they are found varying the monotony of cross-country rides with racing matches and drinking bouts, cock-fights and fox-hunting; and enlivening assize towns and country houses with balls and plays, frolic and song. A prodigious amount of feasting was perpetrated on an ordinary circuit-round of the seventeenth century; and at circuit-messes, judges' dinners, and sheriffs' banquets, saucy juniors were allowed a licence of speech to staid leaders and grave dignitaries that was altogether exceptional to the prevailing tone of manners.

* Lord Eldon, when he was handsome Jack Scott of the Northern Circuit, was about to make a short cut over the sands from Ulverstone to Lancaster at the flow of the tide, when he was restrained from acting on his rash resolve by the representations of an hotel-keeper. "Danger, danger," asked Scott, impatiently,—"have you ever *lost* anybody there?" Mine host answered slowly, "Nae, sir, naebody has been *lost* on the sands,—*the puir bodies have a' been found at low water.*"

Of circuit life—on the Northern, Norfolk, and Western Circuits—in the days of Charles II. the reader may find some amusing illustrations in the writings of Whitelock, North, Hyde, and inferior annalists of the same date. In a section of this work that refers to lawyers on horseback, the judges and gentlemen of the long robe are seen on the Northern Circuit, riding in armed array, and ready to answer attacks from moss-troopers. Even to the close of the last century, to make the entire round of the Northern Circuit was an undertaking of many discomforts and some hazard. Circuit life in Wales, and the counties bordering on the principality, was often rough and perilous, but in the provinces nearer London the gaiety of circuiteers was less frequently disturbed by apprehensions for their personal safety.

In the days when Chief Justice Hyde, Clarendon's cousin, used to ride the Norfolk Circuit, old Serjeant Earl was the leader, or, to use the slang of the period, "cock of the round." A keen, close-fisted, tough practitioner, this serjeant used to ride from town to town, chuckling over the knowledge that he was earning more and spending less than any other member of the circuit. One biscuit was all the refreshment which he permitted himself on the road from Cambridge to Norwich; although he consented to dismount at the end of every ten miles to stretch his limbs. Sidling up to Serjeant Earl, as there was no greater man for him to toady, Francis North offered himself as the old man's travelling-companion from the university to the manufacturing town; and when Earl with a grim smile accepted the courteous suggestion, the young man congratulated himself. On the following morning, however, he had reason to question his good fortune when the serjeant's clerk brought him a cake, and remarked, significantly, "Put it in your pocket, sir; you'll want it; for my master wont draw bit till he comes to Norwich." It was a hard day's work; but young Frank North was rewarded for his civility to the serjeant, who condescended to instruct his apt pupil in the tricks and chicaneries of their profession. "Sir," inquired North at the close of the excursion, emboldened by the rich man's affability, "by what system do you keep your accounts, which must be very complex, as you have lands, securities, and great

comings-in of all kinds?" "Accounts! boy," answered the grey-headed curmudgeon; "I get as much as I can, and I spend as little as I can; that's how I keep my accounts."

When North had raised himself to the Chiefship of the Common Pleas he chose the Western Circuit, "not for the common cause, it being a long circuit, and beneficial for the officers and servants, but because he knew the gentlemen to be loyal and conformable, and that he should have fair quarter amongst them;" and so much favour did he win amongst the loyal and conformable gentry that old Bishop Mew—the prelate of Winchester, popularly known as Bishop *Patch*, because he always wore a patch of black court-plaster over the scar of a wound which he received on one of his cheeks, whilst fighting as a trooper for Charles I.—used to term him the "Deliciæ occidentis, or Darling of the West." On one occasion this Darling of the West was placed in a ludicrous position by the alacrity with which he accepted an invitation from "a busy fanatic," a Devonshire gentleman, of good family and estate, named Duke. This "busy fanatic" invited the judges on circuit and their officers to dine and sleep at his mansion on their way to Exeter, and subsequently scandalized his guests—all of them of course zealous defenders of the Established Church—by reading family-prayers before supper. "The gentleman," says the historian, "had not the manners to engage the parish minister to come and officiate with any part of the evening service before supper; but he himself got behind the table in his hall, and read a chapter, and then a long-winded prayer, after the Presbyterian way." Very displeased were the Chief Justice and the other Judge of Assize, who, notwithstanding their disapproval, did not care to openly affront their host in his own house; and their dissatisfaction was not diminished on the following day when on entering Exeter they learnt that a full account of Mr. Duke's sanctimonious conduct had preceded them. It was rumoured in the High Street of the old borough that "the judges had been at a conventicle, and the grand jury intended to present them and all their retinue for it."

Not many years elapsed before this Darling of the West was replaced by another Chief Justice who asserted the power of constituted authorities with an energy that roused more fear

than gratitude in the breasts of local magistrates. That grim, ghastly, hideous progress which Jeffreys made in the plenitude of civil and military power through the Western Counties, was not without its comic interludes; and of its less repulsive scenes none was more laughable than that which occurred in Bristol Court-house when the terrible Chief Justice upbraided the Bristol magistrates for taking part in a slave-trade of the most odious sort. The mode in which the authorities of the western port carried on their iniquitous traffic deserves commemoration, for no student can understand the history of any period until he has acquainted himself with its prevailing morality. At a time when by the wealth of her merchants and the political influence of her inhabitants Bristol was the second city of England, her mayor and aldermen used daily to sit in judgment on young men and growing boys, who were brought before them and charged with trivial offences. Some of the prisoners had actually broken the law; but in a large proportion of the cases the accusations were totally fictitious—the arrests having been made in accordance with the directions of the magistrates, on charges which the magistrates themselves knew to be utterly without foundation. Every morning the Bristol tolsey or court-house saw a crowd of those wretched captives—clerks out of employment, unruly apprentices, street boys without parents, and occasionally children of honest birth, ay, of patrician lineage, whose prompt removal from their native land was desired by brutal fathers or vindictive guardians; and every morning a mockery of judicial investigation was perpetrated in the name of justice. Standing in a crowd the prisoners were informed of the offences charged against them; huddled together in the dock, like cattle in a pen, they caught stray sentences from the lips of the perjured rascals who had seized them in the public ways; and whilst they thus in a frenzy of surprise and fear listened to the statements of counsel for the prosecution, and to the fabrications of lying witnesses, agents of the court whispered to them that if they wished to save their lives they must instantly confess their guilt, and implore the justices to transport them to the plantations. Ignorant, alarmed, and powerless, the miserable victims invariably acted on this perfidious counsel; and forthwith the magistrates

ordered their shipment to the West Indies, where they were sold as slaves—the money paid for them by West Indian planters in due course finding its way into the pockets of the Bristol justices. It is asserted that the wealthier aldermen, through caution, or those few grains of conscience which are often found in the breasts of consummate rogues, forbore to share in the gains of this abominable traffic; but it cannot be gainsaid that the least guilty magistrates winked at the atrocious conduct of their brother-justices.

Vowing vengeance on the Bristol kidnappers Jeffreys entered their court-house, and opened proceedings by crying aloud that "he had brought a broom to sweep them with." The Mayor of Bristol was in those days no common mayor; in Assize Commissions his name was placed before the names of Judges of Assize; and even beyond the limits of his jurisdiction he was a man of mark and influence. Great therefore was this dignitary's astonishment when Jeffreys ordered him—clothed as he was in official scarlet and furs—to stand in the dock. For a few seconds the local potentate demurred; but when the Chief Justice poured upon him a cataract of blasphemy, and vowed to hang him instantly over the entrance to the tolsey unless he complied immediately, the humiliated chief magistrate of the ancient borough took his place at the felon's bar, and received such a rating as no thief, murderer, or rebel had ever heard from George Jeffreys' abusive mouth. Unfortunately the affair ended with the storm. Until the arrival of William of Orange the guilty magistrates were kept in fear of criminal prosecution; but the matter was hushed up and covered with amnesty by the new government, so that "the fright only, which was no small one, was all the punishment which these judicial kidnappers underwent; and the gains," says Roger North, "acquired by so wicked a trade, rested peacefully in their pockets." It should be remembered that the kidnapping justices whom the odious Jeffreys so indignantly denounced were tolerated and courted by their respectable and prosperous neighbours; and some of the worst charges, by which the judge's fame has been rendered odious to posterity, depend upon the evidence of men who, if they were not kidnappers themselves, saw nothing peculiarly atrocious in the conduct of

magistrates who systematically sold their fellow-countrymen into a most barbarous slavery.

Amongst old circuit stories of questionable truthfulness, there is a singular anecdote recorded by the biographers of Chief Justice Hale, who, whilst riding the Western Circuit, tried a half-starved lad on a charge of burglary. The prisoner had been shipwrecked upon the Cornish coast, and on his way through an inhospitable district had endured the pangs of extreme hunger. In his distress, the famished wanderer broke the window of a baker's shop, and stole a loaf of bread. Under the circumstances, Hale directed the jury to acquit the prisoner: but, less merciful than the judge, the gentlemen of the box returned a verdict of "Guilty"—a verdict which the Chief Justice stoutly refused to act upon. After much resistance, the jurymen were starved into submission; and the youth was set at liberty. Several years elapsed; and Chief Justice Hale was riding the Northern Circuit, when he was received with such costly and excessive pomp by the sheriff of a northern county, that he expostulated with his entertainer on the lavish profuseness of his conduct. "My lord," answered the sheriff, with emotion, "don't blame me for showing my gratitude to the judge who saved my life when I was an outcast. Had it not been for you, I should have been hanged in Cornwall for stealing a loaf, instead of living to be the richest landowner of my native county."

A pleasant sketch of circuit-life in the middle of the last century may be found in "A Northern Circuit, Described in a Letter to a Friend: a Poetical Essay. To which is Prefixed An Introductory Dialogue between Bayes and His Muse. By a Gentleman of the Middle Temple. 1751." Shortly before the publication of this poem, a courageous chaplain, in an assize sermon preached before the judges in York Minster, had caused a flutter amongst the wearers of the long robe, by protesting against the conduct of those barristers who, for ends quite apart from the interests of justice, were accustomed to browbeat timid witnesses. The scathing words of the preacher were taken by the hearers as specially aimed at a leading counsel whose sarcastic and overbearing manner had made him many enemies. Complimenting the chaplain on the

justice and fitness of his remarks, the author of the poem says—

> "Few like *thee* less for being told
> Some lawyers often are too bold,
> 'Who rack or torture modest folks
> By rude address and awkward jokes;
> Witness, or party, in the cause
> (Not the least grievance in the laws),
> Whoe'er from decency in pleading
> Departs, has little claim to *breeding*.'
> This touch'd *Grimgibber* to the quick,
> And made him splutter, bounce, and kick;
> He urged he ne'er was such a sinner,
> Next day, before my lords at dinner."*

The Newcastle Assize Ball, for generations an important fact in the convivialities of the Northern Circuit, is commemorated by the lines—

> "The ladies handsome, brilliant, gay,
> To dance took half the *bar* away."

In seeking to avoid the customary exactions of their office, the sheriffs of the present generation were only following in the steps of sheriffs who, more than a century past, exerted themselves to reduce the expenses of shrievalties, and whose economical reforms were defended by reference to the conduct of sheriffs under the last of the Tudors. In the days of Eliza-

* In those days judges on Circuit were accustomed to entertain the counsel of the circuit at every assize-town on the round; and it appears that the obnoxious barrister—designated Grimgibber in the poem—called the attention of their lordships to the offensive passages in the chaplain's sermon at the next of these ceremonial banquets. "I hope, my lords," said Grimgibber, rising to his legs, "that in case the sermon be printed, that part may be left out which reflects severely on the conduct of barristers, with respect to witnesses and the characters of parties; for tho' I allow there is nothing personal, yet I think it too severe on the gentlemen of the bar." The reply of the judges is not recorded; but an altercation that ensued between Grimgibber and the chaplain is given. *Chaplain.*—"Sir, I would hope you don't think I would say anything in a sermon to their lordships which might not be public to all the world." *Counsellor Grimgibber.*—"Sir, I beg to say with submission to their lordships, it is not for the honour of the bar that it should be made public. Pray, sir, give me leave to ask you a question. If it were possible that the Devil could die, and leave you a legacy of 50*l.* for a funeral sermon, whether you would preach it?" *Chaplain.*—"That I would; and I would give the devil his due, as I have done you." It is clear that this sermon created much commotion at the time; but the author of the poem says "only a few underbred barristers were affected by it."

beth, the sheriffs demanded and obtained relief from an obligation to supply judges on circuit with food and lodging; under Victoria they have recently exclaimed against the custom which required them to furnish guards of javelin-bearers for the protection of Her Majesty's representatives; when George II. was king, they grumbled against lighter burdens—for instance, the cost of white kid-gloves and payments to bell-ringers. The sheriff is still required by custom to present the judges with white gloves whenever an assize has been held without a single capital conviction; but in past times, on every *maiden* assize, he was expected to give gloves not only to the judges, but to the entire body of circuiteers—barristers as well as officers of court.* Wishing to keep his official expenditure

* With regard to the customary gifts of white gloves Mr. Foss says:—"Gloves were presented to the judges on some occasions: viz., when a man, convicted of murder or manslaughter, came and pleaded the king's pardon; and, till the Act of 4 & 5 William and Mary c. 18, which rendered personal appearance unnecessary, an outlawry could not be reversed, unless the defendant came into court, and with a present of gloves to the judges implored their favour to reverse it. The custom of giving the judge a pair of white gloves upon a maiden assize has continued till the present time." An interesting chapter might be written on the ancient ceremonies and usages obsolete and extant, of our courts of law. Here are a few of the practices which such a chapter would properly notice:—The custom, still maintained, which forbids the Lord Chancellor to utter any word or make any sign, when on Lord Mayor's Day the Lord Mayor of London enters the Court of Chancery, and by the mouth of the Recorder prays his lordship to honour the Guildhall banquet with his presence; the custom—extant so late as Lord Brougham's Chancellorship—which required the Holder of the Seals, at the installation of a new Master of Chancery, to instal the new master by placing a *cap* or hat on his head; the custom which in Charles II.'s time, on motion days at the Chancellor's, compelled all barristers making motions to contribute to his lordship's "Poor's Box,"—barristers within the bar paying two shillings, and outer barristers one shilling,—the contents of which box were periodically given to magistrates, for distribution amongst the deserving poor of London; the custom which required a newly-created judge to present his colleagues with biscuits and wine; the barbarous custom which compelled prisoners to plead their defence, standing in fetters, a custom enforced by Chief Justice Pratt at the trial of the Jacobite agent Christopher Layer, although at the trial of Cranburne for complicity in the "Assassination Plot," Holt had enunciated the merciful maxim, "When prisoners are tried they should stand at their ease;" the custom which—in the days when forty persons died of gaol fever caught at the memorable Black Sessions (May, 1750) at the Old Bailey, when Captain Clarke was tried for killing Captain Innes in a duel—strewed rue, fennel, and other herbs on the ledge of the dock, in the faith that the odour of the herbage would act as a barrier to the poisonous exhalations from prisoners sick of gaol distemper, and would protect the assembly in the body of the court from the contagion of the disease.

down to the lowest possible sum, a certain sheriff for Cumberland—called, in "A Northern Circuit," Sir Frigid Gripus Knapper—directed his under-sheriff not to give white gloves on the occasion of a maiden assize at Carlisle, and also through the mouth of his subordinate declined to pay the officers of the circuit certain customary fees. To put the innovator to shame, Sir William Gascoigne, the judge before whom the case was laid, observed in open court, "Though I can compel an immediate payment, it being a demand of right, and not a mere gift, yet I will set him an example by gifts which I might refuse, but will not, because they are customary," and forthwith addressing the steward, added—"Call the sheriff's coachman, his pages, and musicians, singing-boys, and vergers, and give them the accustomed gifts as soon as the sheriff comes." From this direction, readers may see that under the old system of presents a judge was compelled to give away with his left hand much of that which he accepted with his right. It appears that Sir William Gascoigne's conduct had the desired effect; for as soon as the sheriff made his appearance, he repudiated the parsimonious conduct of the under-sheriff—though it is not credible that the subordinate acted without the direction or concurrence of his superior. "I think it," observed the sheriff, in reference to the sum of the customary payments, "as much for the honour of my office, and the county in general, as it is justice to those to whom it is payable; and if any sheriff has been of a different opinion it shall never bias me."

The particulars of this untoward affair are commemorated thus—

"No capital offenders here;
And very soon the gaol was clear;
On which the Circuiteers receive
Gloves, which the sheriffs always give;
Except some upstart Understrapper
Declares, Sir Frigid Gripus Knapper
(As he's inform'd) the fee refus'd,
And thinks he might have been excus'd,
Who, after spluttering much about it,
Finds no accounts are passed without it.
Sir William said—'What would this man?
Let me do right,—him what he can.

Pay all demands from me that's due,
Though he refuse what's due to you.
It is not mean to claim your right,
They're mean who know it and deny't.
At present let him have his way,
He'll be convinc'd another day.'
A *dwarf* then vow'd the commons should
Be mov'd, by one he knew that would,
To get an act against the clerks,
To pay 'em nought instead of *marks*.
Quoth one, 'Sure much too fast you reckon
To think that House is at your Beckon,
Four hundred years established fees,
No reasonable men displease,
But some bear office so unwilling,
They'd rather pinch than pay a shilling."

From the insulting *sobriquet* affixed to the sheriff, it is clear that the poet assigned the stinginess of the transaction to the high-sheriff, and held the under-sheriff comparatively blameless. In contrast to the parsimonious sheriff of Cumberland, he extols the munificent sheriff of Westmoreland, whose hospitable liberality is thus celebrated—

"Now, Lælius, kindly lend your ear, if
I try to sing a potent sheriff:

* * *

Quite well at Appleby they fare,
For noble Thanet's sheriff there:
And for a grateful rhyme I fetch in
The name of cheerful Captain Mechin;
Not like that niggard sheriff somewhere,
Who dumb'd the bells, whene'er we come there.
Here Steward Gough, who's no curmudgeon,
Nor apt with guests to be in dudgeon,
Says, 'Gents, come look about with me,
'Tis now but two, we dine at three."

In a note, the poet observes: "On the Norfolk Circuit, the sheriff's name was Bell, who forbade the ringing of the bells, as is customary on the entrance of the Judges of Assize, because he would not give anything to the ringers; and when the corporation went to pay their respects to the judges, the mayor, in an apology for the bells not ringing as usual, said, 'My lord, we have one Bell that wants hanging.'"

It appears that the Northern circuiteers were summoned to

dinner by sound of horn, after the ancient use of Inns of Court; the "Gentleman of the Middle Temple" recording,

> "Hark! now the Trumpet calls to dine
> On Ven'son wondrous fat and fine,
> Where cheerful chat is mixed with wine."

From the days when Alexander Wedderburn, in his new silk gown,* to the scandal of all sticklers for professional etiquette, made a daring but futile attempt to seize the lead of the circuit which seventeen years later he rode as judge, "the Northern" has maintained the *prestige* of being the most important of the English circuits. Its palmiest and most famous days belong to the times of Norton and Wallace, Jack Lee and John Scott, Edward Law and Robert Graham; but still amongst the wise white heads of the upper house may be seen at times the mobile features of an aged peer who, as Mr. Henry Brougham, surpassed in eloquence and intellectual brilliance the brightest and most celebrated of his precursors on the great northern round. But of all the great men whose names illustrate the annals of the circuit, Lord Eldon is the person most frequently remembered in connexion with the jovial ways of circuiteers in the old time. In his later years the port-loving earl delighted to recall the times when as Attorney General of the Circuit Grand Court he used to prosecute offenders "against the peace of our Lord the Junior,"

* In his unfaded silk, and attended by a clerk who was known to have great influence with North Country attorneys, Alexander Wedderburn sought to win the place left vacant by the retirement of Sir Fletcher Norton from the Northern Circuit. His first and unexpected appearance at York gave rise to angry opposition on the part of the practising circuiteers, who, fearing that the new comer would carry away all the best business, maintained that no man with an established reputation could for the first time join a circuit without violating professional etiquette. In his defence the intruder urged that, having never before joined any circuit he was free to commence Circuit practice; although had he been a member of any circuit it might be held that he could not *change his circuit* after winning silk. Declining to accept this view of the case, a majority of the bar were disposed to send him to Coventry; but supported by Wallace—who maintained that no rule of professional etiquette had been violated—and assisted by his ingratiating manners and thoroughly "clubbable" temper, Wedderburn subdued the ill-feeling of the profession, and became one of the most popular members of the circuit—on which, however, he failed to get very many briefs, and from which he retired after a short time. After the lapse of a few years he reappeared as Judge of Assize on the circuit from which a strong body of the bar had endeavoured to exclude him.

devise practical jokes for the diversion of the bar, and over bowls of punch at York, or Lancaster, or Kirkby Lonsdale, argue perplexing questions about the morals of advocacy. Just as John Campbell, thirty years later, used to recount with glee how in the mock courts of the Oxford Circuit he used to officiate as crier, "holding a fire-shovel in his hand as the emblem of his office;"* so did old Lord Eldon warm with mirth over recollections of his circuit revelries and escapades. Many of his stories were apocryphal, some of them unquestionably spurious; but the least truthful of them contained an element of pleasant reality. Of course Jemmy Boswell, a decent lawyer, though better biographer, was neither duped by the sham brief, nor induced to apply in court for the writ of "quare adhæsit pavimento;" but it is quite credible that on the morning after his removal in a condition of vinous prostration from the Lancaster flag-stones, his jocose friends concocted the brief, sent it to him with a bad guinea, and proclaimed the success of their device. When the chimney-sweeper's boy met his death by falling from a high gallery to the floor of the court-house at the York Assizes, whilst Sir Thomas Davenport was speaking, it was John Scott who—arguing that the orator's dulness had sent the boy to sleep, and so caused his fatal fall—prosecuted Sir Thomas for murder in the High Court, alleging in the indictment that the death was produced by "a certain blunt instrument of *no value*, called a *long speech*." The records of the Northern Circuit abound with testimony to the hearty zeal with which the future Chancellor took part in the proceedings of the Grand Court—paying fines and imposing them with equal readiness,

* For some time, whilst Campbell held this humble office in the Grand Court of his Circuit, Charles Abbott (Lord Tenterden) was the Attorney General of the same tribunal, of whose able conduct in that high place the biographer of the Chief Justices records,—"He still filled the office of Attorney General in the Grand Circuit Court, held at Monmouth, which I regularly opened as crier, holding the poker instead of a white wand; and being so deeply versed in all legal forms, he brought forward his mock charges against the delinquents whom he prosecuted with much solemnity and burlesque effect—so as for the moment to induce a belief that notwithstanding his habitual gravity Nature intended him for a wag." In the 'Chancellors' Campbell names a "fireshovel," whilst in the 'Chief Justices' he names "a poker," as the article which he bore in lieu of a wand in the Grand Court. Alas for the inaccuracy of biographers on matters of vital importance!

now upholding with mock gravity the high and majestic character of the presiding judge, and at another time inveighing against the levity and indecorum of a learned brother who had maintained in conversation that "no man would be such a —— fool as to go to a lawyer for advice who knew how to get on without it." The monstrous offender against religion and propriety who gave utterance to this execrable sentiment was Pepper Arden (subsequently Master of the Rolls and Lord Alvanley), and his punishment is thus recorded in the archives of the circuit:—"In this he was considered as doubly culpable, in the first place as having offended against the laws of Almighty God by his profane cursing; for which, however, he made a very sufficient atonement by paying a bottle of claret; and secondly, as having made use of an expression which, if it should become a prevailing opinion, might have the most alarming consequences to the profession, and was therefore deservedly considered in a far more hideous light. For the last offence he was fin'd 3 bottles. Pd."

One of the most ridiculous circumstances over which the Northern Circuit men of the last generation delighted to laugh occurred at Newcastle, when Baron Graham—the poor lawyer, but singularly amiable and placid man, of whom Jekyll observed, "no one but his sempstress could ruffle him"—rode the circuit, and was immortalized as "My Lord 'Size," in Mr. John Shield's capital song—

"The jailor, for trial, had brought up a thief,
Whose looks seemed a passport for Botany Bay;
The lawyers, some with and some wanting a brief,
Around the green table were seated so gay;
Grave jurors and witnesses, waiting a call;
Attorneys and clients, more angry than wise;
With strangers and town-people, throng'd the Guildhall,
All watching and gaping to see my Lord 'Size.

"Oft stretch'd were their necks, oft erected their ears,
Still fancying they heard of the trumpets the sound,
When tidings arriv'd, which dissolv'd them in tears,
That my lord at the dead-house was then lying drown'd.
Straight left *tête-à-tête* were the jailer and thief;
The horror-struck crowd to the dead-house quick hies;
Ev'n the lawyers, forgetful of fee and of brief,
Set off helter-skelter to view my Lord 'Size.

"And now the Sandhill with the sad tidings rings,
And the tubs of the taties are left to take care;
Fishwomen desert their crabs, lobsters, and lings,
And each to the dead-house now runs like a hare;
The glassmen, some naked, some clad, heard the news,
And off they ran, smoking like hot mutton pies;
Whilst Castle Garth tailors, like wild kangaroos,
Came tail-on-end jumping to see my Lord 'Size.

"The dead-house they reach'd, where his lordship they found,
Pale, stretch'd on a plank, like themselves out of breath,
The coroner and jury were seated around,
Most gravely enquiring the cause of his death.
No haste did they seem in, their task to complete,
Aware that from hurry mistakes often rise;
Or wishful, perhaps, of prolonging the treat
Of thus sitting in judgment upon my Lord 'Size.

"Now the Mansion House butler thus gravely depos'd:—
'My lord on the terrace seem'd studying his charge;
And when (as I thought) he had got it compos'd,
He went down the stairs and examined the barge;
First the stem he survey'd, then inspected the stern,
Then handled the tiller, and look'd mighty wise;
But he made a false step when about to return,
And souse in the river straight tumbled Lord 'Size.'

"Now his narrative ended, the butler retir'd,
Whilst Betty Watt, muttering (half-drunk) through her teeth,
Declar'd 'in her breast great consarn it inspir'd,
That my lord should sae cullishly come by his death;'
Next a keelman was called on, Bold Airchy by name,
Who the book as he kissed show'd the whites of his eyes,
Then he cut an odd caper, attention to claim,
And this evidence gave them respecting Lord 'Size:—

"'Aw was settin' the keel, wi' Dick Slavers an' Matt,
An' the Mansion House stairs we were just alongside,
When we a' three see'd somethin', but didn't ken what,
That was splashin' and labberin' aboot i' the tide.
'It's a fluiker,' ki Dick; 'No,' ki Matt, 'it's owre big,
It luik'd mair like a skyet when aw furst seed it rise;'
Kiv aw—for aw'd getten a gliff o' the wig—
Ods marcy! wey, marrows, becrike, it's Lord 'Size!

"'Sae aw huik'd him, an' haul'd him suin into the keel,
An' o' top o' the huddock aw rowl'd him aboot;
An' his belly aw rubb'd, an' aw skelp'd his back weel,
But the water he'd druck'n it wadn't run oot;

Sae aw brought him ashore here, an' doctors, in vain,
Furst this way, then that, to recover him tries;
For ye see there he's lyin' as deed as a stane,
An' that's a' aw can tell ye aboot my Lord Size.'

"Now the Jury for close consultation retir'd:
Some '*Death Accidental*' were willing to find;
Some 'God's Visitation' most eager requir'd;
And some were for 'Fell in the River' inclin'd;
But ere on their verdict they all were agreed,
My Lord gave a groan, and wide open'd his eyes;
Then the coach and the trumpeters came with great speed,
And back to the Mansion House carried Lord 'Size."

At the time of the occurrence thus humorously exaggerated, the mayors of Newcastle resided, during tenure of office, in the old civic Mansion House nigh the river,—each mayor being allowed an income of 2000*l.*, together with the use of a state-coach, a barge, and much valuable plate; in return for which official perquisites he was required to entertain the judges when they came to the town on circuit, and was expected to exercise a liberal hospitality towards the principal citizens and to all distinguished visitors. Whilst Baron Graham was the guest of Newcastle's mayor, it was his misfortune to fall from the mayoral barge into the Tyne, to the consternation of the ladies, and to the lively concern of barristers looking eagerly for promotion to the bench.

Amongst memorable Northern Circuit worthies was George Wood, the celebrated Special Pleader, in whose chambers Law, Erskine, Abbott, and a mob of eminent lawyers acquired a knowledge of their profession. It is on record that whilst he and Mr. Holroyd were posting the Northern round, they were accosted on a lonely heath by a well-mounted horseman, who reining in his steed asked the barrister "What o'clock it was?" Favourably impressed by the stranger's appearance and tone of voice, Wood pulled out his valuable gold repeater, when the highwayman presenting a pistol and putting it on the cock, said coolly, "*As you have* a watch, be kind enough to give it me, so that I may not have occasion to trouble you again about the time." To demur was impossible; the lawyer, therefore, who had met his disaster by *going to the country*, meekly submitted to circumstances and surrendered the watch.

For the loss of an excellent gold repeater he cared little, but he winced under the banter of his professional brethren, who long after the occurrence used to smile with malicious significance as they accosted him with — "What's the time, Wood?"

Another of the memorable Northern circuiteers was John Hullock, who, like George Wood, became a baron of the Exchequer, and of whom the following story is told on good authority. In an important cause, tried upon the Northern Circuit, he was instructed by the attorney who retained him as leader on one side not to produce a certain deed unless circumstances made him think that without its production his client would lose the suit. On perusing the deed entrusted to him with this remarkable injunction, Hullock saw that it established his client's case, and wishing to despatch the business with all possible promptitude, he produced the parchment before its exhibition was demanded by necessity. Examination instantly detected the spurious character of the deed, which had been fabricated by the attorney. Of course the presiding judge (Sir John Bayley) ordered the deed, to be impounded; but before the order was carried out Mr. Hullock obtained permission to inspect it again. Restored to his hands, the deed was forthwith replaced in his bag. "You must surrender that deed instantly," exclaimed the judge, seeing Hullock's intention to keep it. "My lord," returned the barrister, warmly, "no power on earth shall induce me to surrender it. I have incautiously put the life of a fellow-creature in peril; and though I acted to the best of my discretion, I should never be happy again were a fatal result to ensue." At a loss to decide on the proper course of action, Mr. Justice Bayley retired from court to consult with his learned brother. On his lordship's reappearance in court, Mr. Hullock—who had also left the court for a brief period—told him that during his absence the forged deed had been destroyed. The attorney escaped; the barrister became a judge.

CHAPTER LXIX.

LAWYERS AND SAINTS.

NOTWITHSTANDING the close connexion which in old times existed between the Church and the Law, popular sentiment holds to the opinion that the ways of lawyers are far removed from the ways of holiness, and that the difficulties encountered by wealthy travellers on the road to heaven are far greater with rich lawyers than with any other class of rich men. An old proverb teaches that wearers of the long robe never reach paradise *per saltum*, but "by slow degrees;" and an irreverent ballad supports the vulgar belief that the only attorney to be found on the celestial rolls gained admittance to the blissful abode more by artifice than desert. The ribald broadside runs in the following style:—

"Professions will abuse each other;
The priests wont call the lawyer brother;
While *Salkeld* still beknaves the parson,
And says he cants to keep the farce on.
Yet will I readily suppose
They are not truly bitter foes,
But only have their pleasant jokes,
And banter, just like other folks.
And thus, for so they quiz the law,
Once on a time th' Attorney Flaw,
A man, to tell you, as the fact is,
Of vast chicane, of course of practice;
(But what profession can we trace
Where none will not the corps disgrace?
Seduced, perhaps, by roguish client,
Who tempts him to become more pliant),
A notice had to quit the world,
And from his desk at once was hurled.
Observe, I pray, the plain narration:
'Twas in a hot and long vacation,

When time he had, but no assistance,
Tho' great from courts of law the distance,
To reach the court of truth and justice
(Where I confess my only trust is);
Though here below the special pleader
Shows talents worthy of a leader,
Yet his own fame he must support,
Be sometimes witty with the court,
Or work the passion of a jury
By tender strains, or full of fury;
Misleads them all, tho' twelve apostles,
While with new law the judge he jostles,
And makes them all give up their powers
To speeches of at least three hours—
But we have left our little man,
And wandered from our purpos'd plan:
'Tis said (without ill-natured leaven)
"If ever lawyers get to heaven,
It surely is by slow degrees"
(Perhaps 'tis slow they take their fees).
The case, then, now I fairly state:
Flaw reached at last to heaven's high gate;
Quite short he rapped, none did it neater;
The gate was opened by St. Peter,
Who looked astonished when he saw,
All black, the little man of law;
But charity was Peter's guide;
For having once himself denied
His master, he would not o'erpass
The penitent of any class;
Yet never having heard there entered
A lawyer, nay, nor ever ventured
Within the realms of peace and love,
He told him mildly to remove,
And would have closed the gate of day,
Had not old Flaw in suppliant way,
Demurring to so hard a fate,
Begg'd but a look, tho' through the gate.
St. Peter, rather off his guard,
Unwilling to be thought too hard,
Opens the gate to let him peep in.
What did the lawyer? Did he creep in?
Or dash at once to take possession?
Oh no, he knew his own profession:
He took his hat off with respect,
And would no gentle means neglect;
But finding it was all in vain
For him admittance to obtain,
Thought it were best, let come what will,
To gain an entry by his skill.

So while St. Peter stood aside,
To let the door be opened wide,
He skimmed his hat with all his strength
Within the gate to no small length.
St. Peter stared; the lawyer asked him
"Only to fetch his hat," and passed him;
But when he reached the jack he'd thrown,
Oh, then was all the lawyer shown:
He clapt it on, and arms akembo
(As if he had been the gallant Bembo),
Cry'd out—'What think you of my plan?
Eject me, Peter, if you can.'"

The celestial courts having devised no process of ejectment that could be employed in this unlooked-for emergency, St. Peter hastily withdrew to take counsel's opinion; and during his absence Mr. Flaw firmly established himself in the realm of bliss, where he remains to this day the black sheep of the saintly family.

But though a flippant humorist in these later times could deride the lawyer as a character who had better not force his way into heaven, since he would not find a single personal acquaintance amongst its inhabitants, in more remote days lawyers achieved the honours of canonization, and our forefathers sought their saintly intercession with devout fervour. Our calendars still regard the 15th of July as a sacred day, in memory of the holy Swithin, who was tutor to King Ethelwulf and King Alfred, and Chancellor of England, and who certainly deserved his elevation to the fellowship of saints, even had his title to the honour rested solely on a remarkable act which he performed in the exercise of his judicial functions. A familiar set of nursery rhymes sets forth the utter inability of all the king's horses and men to re-form the shattered Humpty-Dumpty, when his rotund highness had fallen from a wall; but when a wretched market-woman, whose entire basketful of new-laid eggs had been wilfully smashed by an enemy, sought in her trouble the aid of Chancery, the holy Chancellor Swithin miraculously restored each broken shell to perfect shape, each yolk to soundness. Saith William of Malmesbury, recounting this marvellous achievement—"statimque porrecto crucis signo, fracturam omnium ovorum consolidat."

Like Chancellor Swithin before him, and like Chancellor Wolsey in a later time, Chancellor Becket was a royal tutor;* and like Swithin, who still remains the pluvious saint of humid England, and unlike Wolsey, who just missed the glory of canonization, Becket became a widely venerated saint. But less kind to St. Thomas of Canterbury than to St. Swithin, the Reformation degraded Becket from the saintly rank by the decision which terminated the ridiculous legal proceedings instituted by Henry VIII. against the holy reputation of St. Thomas. After the saint's counsel had replied to the Attorney General, who, of course, conducted the cause for the crown, the court declared that "Thomas, sometime Archbishop of Canterbury, had been guilty of contumacy, treason, and rebellion; that his bones should be publicly burnt, to admonish the living of their duty by the punishment of the dead; and that the offerings made at his shrine should be forfeited to the crown."

After the conclusion of the suit for the saint's degradation —a suit which was an extravagant parody of the process for establishing at Rome a holy man's title to the honours of canonization—proclamation was made that "forasmuch as it now clearly appeared that Thomas Becket had been killed in a riot excited by his own obstinacy and intemperate language, and had been afterwards canonized by the Bishop of Rome as the champion of his usurped authority, the king's majesty thought it expedient to declare to his loving subjects that he was no saint, but rather a rebel and traitor to his prince, and therefore strictly charged and commanded that he should not

* Swithin was tutor to Ethelwulf and Alfred. Becket was tutor to Henry II.'s eldest son. Wolsey—who took delight in discharging scholastic functions from the days when he birched schoolboys at Magdalen College, Oxford, till the time when in the plenitude of his grandeur he framed regulations for Dean Colet's school of St. Paul's, and wrote an introduction to a Latin Grammar for the use of children—acted as educational director to the Princess Mary, and superintended the studies of Henry VIII.'s natural son, the Earl of Richmond. Amongst pedagogue-chancellors, by licence of fancy, may be included the Earl of Clarendon, whose enemies used to charge him with "playing the schoolmaster to his king," and in their desire to bring him into disfavour at court used to announce his approach to Charles II. by saying, "Here comes your schoolmaster."

be esteemed or called a saint; that all images and pictures of him should be destroyed, the festivals in his honour be abolished, and his name and remembrance be erased out of all books, under pain of his Majesty's indignation and imprisonment at his grace's pleasure."

But neither St. Swithin nor St. Thomas of Canterbury, lawyers though they were, deigned to take the legal profession under especial protection, and to mediate with particular officiousness between the Long Robe and St. Peter. The peculiar saint of the profession was St. Evona, concerning whom Carr, in his "Remarks of the Government of the Severall Parts of Germanie, Denmark, &c.," has the following passage: "And now because I am speaking of Petty-foggers, give me leave to tell you a story I mett with when I lived in Rome. Goeing with a Romane to see some antiquityes, he showed me a chapell dedicated to St. Evona, a lawyer of Brittanie, who, he said, came to Rome to entreat the Pope to give the lawyers of Brittanie a patron, to which the Pope replied, that he knew of no saint but what was disposed to other professions. At which Evona was very sad, and earnestly begd of the Pope to think of one for him. At last the Pope proposed to St. Evona that he should goe round the church of St. John de Latera blindfold, and after he had said so many Ave Marias, that the first saint he laid hold of should be his patron, which the good old lawyer willingly undertook, and at the end of his Ave Maryes he stopt at St. Michel's altar, where he layed hold of the Divell, under St. Michel's feet, and cry'd out, This is our saint, let him be our patron. So being unblindfolded, and seeing what a patron he had chosen, he went to his lodgings so dejected, that a few moneths after he died, and coming to heaven's gates knockt hard. Whereupon St. Peter asked who it was that knockt so bouldly. He reply'd that he was St. Evona the advocate. Away, away, said St. Peter; here is but one advocate in Heaven; here is no room for you lawyers. O but, said St. Evona, I am that honest lawyer who never tooke fees on both sides, or pleaded in a bad cause, nor did I ever set my Naibours together by the ears, or lived by the sins of the People. Well then, said St. Peter, come in. This

newes coming down to Rome, a witty poet wrote on St. Evona's tomb these words—

'St. Evona un Briton,
Advocat non Larron.
Halleluiah.'

This story put me in mind of Ben Jonson goeing throw a church in Surrey, seeing poore people weeping over a grave, asked one of the women why they wept. Oh, said shee, we have lost our pretious lawyer, Justice Randall; he kept us all in peace, and always was so good as to keep us from goeing to law; the best man ever lived. Well, said Ben Jonson, I will send you an epitaph to write upon his tomb, which was—

'God works wonders now and then,
Here lies a lawyer an honest man.'"

Although honest lawyers are more common than popular satire represents, it must be admitted that the sun has not for many days shone on an English judge whom his fellow-countrymen would care to name amongst the Princes of Paradise. That our Chancellors should deem themselves totally disqualified by the worldly nature of their calling for offices of religious instruction is not to be desired, since they are every now and then required to decide delicate questions concerning the doctrine of the Established Church; but since the time of Lord Keeper Williams the holder of the seals has come to be regarded as so necessarily secular a personage, that no Chancellor would now-a-days hope to increase his political influence by discharging any of the functions of the priest. In early manhood Wedderburn was a ruling elder of the Church of Scotland; but far from contributing to his power and respectability on the woolsack, the recollection that he had formerly acted in that quasi-religious capacity gave encouragement to those who sought to cover him with ridicule. Erskine at every period of his legal career used to delight in telling how in his days of military service he read prayers and preached to the private soldiers of his regiment; but so sensible was he of the incongruity of the legal and spiritual vocations, he invariably told the anecdote with an air of jocose levity that occasionally caused offence to austere listeners. From the days when as

member for Weobly he quoted scripture in his inexpressibly ludicrous harangue on Fox's India Bill, to the time when sitting on the woolsack he consigned the entire bench of bishops to perdition, and until the last day of his career, Eldon was prone to assume a sanctimonious fervour whilst addressing members of parliament; but apart from the amusement which they caused the profane, his pious orations exercised scarcely any influence on the public, who were not slow to say that the orator—whose voice was consistently raised in behalf of the established religion, though his person was never seen within the walls of a church—resembled the church buttress rather than the church pillar.

An important vestige of the close relations which formerly existed between the Law and the Church is still found in the ecclesiastical patronage of the Lord Chancellor; and many are the good stories told of interviews that took place between our more recent chancellors and clergymen suing for preferment. "Who sent you, sir?" Thurlow asked savagely of a country curate, who had boldly forced his way into the Chancellor's library in Great Ormond Street, in the hope of winning the presentation to a vacant living. "In whose *name* do you come that you venture to pester me about your private affairs? I say, sir—what great lord sent you to bother me in my house?" "My lord," answered the applicant, with a happy combination of dignity and humour, "no great man supports my entreaty; but I may say with honesty, that I come to you in the name of the Lord of Hosts." Pleased by the spirit and wit of the reply, Thurlow exclaimed, "The Lord of Hosts! the Lord of Hosts! you are the first parson that ever applied to me in that Lord's name; and though his title can't be found in the Peerage, by —— you shall have the living." On another occasion the same Chancellor was less benign, but not less just, to a clerical applicant. Sustained by Queen Charlotte's personal favour and intercession with Thurlow, the clergyman in question felt so sure of obtaining the valuable living which was the object of his ambition, that he regarded his interview with the Chancellor as a purely formal affair. "I have, sir," observed Lord Thurlow, "received a letter from the curate of the parish to which it is my intention to prefer you, and on inquiry I

find him to be a very worthy man. The father of a large family, and a priest who has laboured zealously in the parish for many years, he has written to me—not asking for the living, but modestly entreating me to ask the new rector to retain him as curate. Now, sir, you would oblige me by promising me to employ the poor man in that capacity." "My lord," replied Queen Charlotte's *protégé*, "it would give me great pleasure to oblige your lordship in this matter, but unfortunately I have arranged to take a personal friend for my curate." His eyes flashing angrily, Thurlow answered, "Sir, I cannot force you to take this worthy man for your curate, but I can make him the rector; and by —— he shall have the living, and be in a position to offer you the curacy." And forthwith, to the applicant's inexpressible surprise and chagrin, the Chancellor's words were carried out.

Of Lord Loughborough a reliable biographer records a pleasant and singular story. Having pronounced a decision in the House of Lords, which deprived an excellent clergyman of a considerable estate and reduced him to actual indigence, the Chancellor before quitting the woolsack addressed the unfortunate suitor thus:—"As a judge I have decided against you, whose virtues are not unknown to me; and in acknowledgment of those virtues I beg you to accept from me a presentation to a living now vacant, and worth 600*l.* per annum."

Capital also are the best of many anecdotes concerning Eldon and his ecclesiastical patronage. Dating the letter from No. 2, Charlotte Street, Pimlico, the Chancellor's eldest son sent his father the following anonymous epistle:—

"Hear, generous lawyer! hear my prayer,
Nor let my freedom make you stare,
In hailing you Jack Scott!
Tho' now upon the woolsack placed,
With wealth, with power, with title graced,
Once nearer was our lot.

"Say by what name the hapless bard
May best attract your kind regard—
Plain Jack?—Sir John?—or Eldon?
Give, from your ample store of giving,
A starving priest some little living—
The world will cry out 'Well done.'

"In vain, without a patron's aid,
I've prayed and preached, and preached and prayed—
Applauded but *ill-fed.*
Such vain *éclat* let others share;
Alas, I cannot feed on *air*—
I ask not *praise*, but *bread.*"

Satisfactorily hoaxed by the rhymer the Chancellor went to Pimlico in search of the clerical poetaster, and found him not.

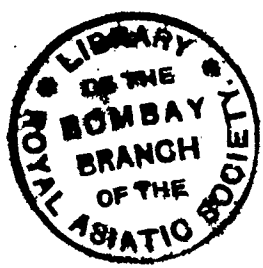
Prettier and less comic is the story of Miss Bridge's morning call upon Lord Eldon. The Chancellor was sitting in his study over a table of papers when a young and lovely girl—slightly rustic in her attire, slightly embarrassed by the novelty of her position, but thoroughly in command of her wits—entered the room and walked up to the lawyer's chair. "My dear," said the Chancellor, rising and bowing with old-world courtesy, "who *are* you?" "Lord Eldon," answered the blushing maiden, "I am Bessie Bridge of Weobly, the daughter of the Vicar of Weobly, and papa has sent me to remind you of a promise which you made him when I was a little baby, and you were a guest in his house on the occasion of your first election as Member of Parliament for Weobly." "A promise, my dear young lady?" interposed the Chancellor, trying to recall how he had pledged himself. "Yes, Lord Eldon, a promise. You were standing over my cradle when papa said to you, 'Mr. Scott, promise me that if ever you are Lord Chancellor when my little girl is a poor clergyman's wife, you will give her husband a living;' and you answered, 'Mr. Bridge, my promise is not worth half-a-crown, but I give it to you, wishing it were worth more.'" Enthusiastically the Chancellor exclaimed, "You are quite right. I admit the obligation. I remember all about it;" and then, after a pause, archly surveying the damsel, whose graces were the reverse of matronly, he added, "But surely the time for keeping my promise has not yet arrived? You cannot be any one's wife at present?" For a few seconds Bessie hesitated for an answer; and then, with a blush and a ripple of silver laughter, she replied, "No, but I do so wish to be *somebody's* wife. I am engaged to a young clergyman; and there's a living in Herefordshire near my old home that has recently fallen vacant, and if you'll give it to

Alfred, why then, Lord Eldon, we shall marry before the end of the year." Is there need to say that the Chancellor forthwith summoned his secretary, that the secretary forthwith made out the presentation to Bessie's lover, and that, having given the Chancellor a kiss of gratitude, Bessie made good speed back to Herefordshire, hugging the precious document the whole way home.

A bad but eager sportsman Lord Eldon used to blaze away at his partridges and pheasants with such uniform want of success that Lord Stowell had truth as well as humour on his side when he observed, "My brother has done much execution this shooting season; with his gun he has *killed a great deal of time.*" Having ineffectually discharged two barrels at a covey of partridges, the Chancellor was slowly walking to the gate of one of his Encombe turnip-fields when a stranger of clerical garb and aspect hailed him from a distance, asking, "Where is Lord Eldon?" Not anxious to declare himself to the witness of his ludicrously bad shot, the Chancellor answered evasively, and with scant courtesy, "Not far off." Displeased with the tone of this curt reply, the clergyman rejoined, "I wish you'd use your tongue to better purpose than you do your gun, and tell me civilly where I can find the Chancellor." "Well," responded the sportsman, when he had slowly approached his questioner, "here you see the Chancellor—I am Lord Eldon." It was an untoward introduction to the Chancellor for the strange clergyman who had travelled from the North of Lancashire to ask for the presentation to a vacant living. Partly out of humorous compassion for the applicant who had offered rudeness, if not insult, to the person whom he was most anxious to propitiate; partly because on inquiry he ascertained the respectability of the applicant; and partly because he wished to seal by kindness the lips of a man who could report on the authority of his own eyes that the best lawyer was also the worst shot in all England, Eldon gave the petitioner the desired preferment. "But now," the old Chancellor used to add in conclusion, whenever he told the story, "see the ingratitude of mankind. It was not long before a large present of game reached me, with a letter from my new-made rector, purporting that he had sent it me, because *from*

what he had seen of my shooting he supposed I must be badly off for game. Think of turning upon me in this way, and wounding me in my tenderest point."

Amongst Eldon's humorous answers to applications for preferment should be remembered his letter to Dr. Fisher of the Charterhouse: on one side of a sheet of paper, "Dear Fisher, I cannot, to-day, give you the preferment for which you ask. —I remain your sincere friend, ELDON.—*Turn over;*" and on the other side, "I gave it to you yesterday." This note reminds us of Erskine's reply to Sir John Sinclair's solicitation for a subscription to the testimonial which Sir John invited the nation to present to himself. On the one side of a sheet of paper it ran, "My dear Sir John, I am certain there are few in this kingdom who set a higher value on your services than myself, and I have the honour to subscribe," on the other side it concluded, "myself your obedient faithful servant, ERSKINE."



PART XIII.—AT HOME: IN COURT: AND IN SOCIETY.

CHAPTER LXX.

LAWYERS AT THEIR OWN TABLES.

FROM time immemorial the good lawyer has been required to love good living, and be ready to dispense good cheer to others with a liberal hand. A long list, indeed, might be made out of abstemious lawyers; but their temperance is almost invariably mentioned by biographers as matter for regret and apology, and is even made an occasion for reproach in cases where it has not been palliated by habits of munificent hospitality. In the catalogue of Chancellor Warham's virtues and laudable usages, Erasmus takes care to mention that the primate was accustomed to entertain his friends, to the number of two hundred at a time; and when the man of letters notices the archbishop's moderation with respect to wines and dishes—a moderation that caused his grace to eschew suppers, and never to sit more than an hour at dinner—he does not omit to observe that though the great man "made it a rule to abstain entirely from supper, yet if his friends were assembled at that meal he would sit down along with them and promote their conviviality."

Splendid in all things, Wolsey astounded envious nobles by the magnificence of his banquets, and the lavish expenses of his kitchens wherein his master-cooks wore raiment of richest materials—the *chef* of his private kitchen daily arraying himself in damask-satin or velvet, and wearing on his neck a chain of gold. Of a far other kind were the tastes of Wolsey's suc-

cessor, who, in the warmest sunshine of his power, preferred a quiet dinner with Erasmus to the pompous display of state banquets, and who wore a gleeful light in his countenance when, after his fall, he called his children and grandchildren about him, and said: "I have been brought up at Oxford, at an Inn of Chancery, at Lincoln's Inn, and in the King's Court,—from the lowest degree to the highest, and yet have I in yearly revenues at this present little left me above a hundred pounds by the year; so that now, if we wish to live together, you must be content to be contributaries together. But my counsel is that we fall not to the lowest fare first; we will not, therefore, descend to Oxford fare, nor to the fare of New Inn, but we will begin with Lincoln's Inn diet, where many right worshipful men of great account and good years do live full well, which if we find ourselves the first year not able to maintain, then will we in the next year come down to Oxford fare, where many great, learned, and ancient fathers and doctors are continually conversant, which if our purses stretch not to maintain neither, then may we after, with bag and wallet, go a-begging together, hoping that for pity some good folks will give us their charity, and at every man's door to sing a *Salve Regina*, whereby we shall keep company and be merry together."

Students recalling the social life of England should bear in mind the hours kept by our ancestors in the fourteenth and two following centuries. Under the Plantagenets noblemen used to sup at five P.M., and dine somewhere about the breakfast hour of Mayfair in a modern London season. Gradually hours became later; but under the Tudors the ordinary dinner hour for gentlepeople was somewhere about eleven A.M., and their usual time for supping was between five P.M. and six P.M., tradesmen, merchants, and farmers dining and supping at later hours than their social superiors. "With us," says Hall the chronicler, "the nobility, gentry, and students do ordinarily go to dinner at eleven before noon, and to supper at five, or between five and six, at afternoon. The merchants dine and sup seldom before twelve at noon and six at night. The husbandmen also dine at high noon as they call it, and sup at seven or eight; but out of term in our universities the

scholars dine at ten." Thus whilst the idlers of society made haste to eat and drink, the workers postponed the pleasures of the table until they had made a good morning's work. The time was still in a distant future when the Fifth-Avenue dandy, humorously describing the ways of fashionable life in New York and Washington, said, "Members of Congress, when they're off duty, and their families, dine somewhere about nine or ten P.M.; but the President, Vice-President, cabinet ministers, and such consummate tip-top swells never think of dining before next day,—and by — nothing but the sharpest hunger can induce them to dine even then." In the days of morning dinners and afternoon suppers the law-courts used to be at the height of their daily business at an hour when Templars of the present generation have seldom risen from bed. Chancellors were accustomed to commence their daily sittings in Westminster at seven A.M. in summer, and at eight A.M. in winter months. Lord Keeper Williams, who endeavoured to atone for want of law by extraordinarily assiduous attention to the duties of his office, used indeed to open his winter sittings by candlelight between six and seven o'clock.

Many were the costly banquets of which successive Chancellors invited the nobility, the judges, and the bar to partake at old York House; but of all the holders of the Great Seal who exercised pompous hospitality in that picturesque palace, Francis Bacon was the most liberal, gracious, and delightful entertainer. Where is the student of English history who has not often endeavoured to imagine the scene when Ben Jonson sate amongst the honoured guests of

> "England's high Chancellor, the destin'd heir,
> In his soft cradle, to his father's chair;"

and little prescient of the coming storm, spoke of his host as one

> "Whose even thread the Fates spin round and full,
> Out of their choicest and their whitest wool."

Even at the present day lawyers have reason to be grateful to Bacon for the promptitude with which, on taking possession of the Marble Chair, he revived the ancient usages of earlier holders of the seal and set an example of courteous hospitality

to the bar, which no subsequent Chancellor has been able to disregard without loss of respect and *prestige*. Though a short attack of gout qualified the new pleasure of his elevation —an attack attributed by the sufferer to his removal "from a field air to a Thames air," *i.e.*, from Gray's Inn to the south side of the Strand—Lord Keeper Bacon lost no time in summoning the judges and most eminent barristers to his table; and though the gravity of his indisposition, or the dignity of his office, forbade him to join in the feast, he sate and spoke pleasantly with them when the dishes had been removed. "Yesterday," he wrote to Buckingham, "which was my weary day, I bid all the judges to dinner, which was not used to be, and entertained them in a private withdrawing chamber with the learned counsel. When the feast was past I came amongst them and sate me down at the end of the table, and prayed them to think I was one of them, and but a foreman." Nor let us, whilst recalling Bacon's bounteous hospitalities, fail in justice to his great rival Sir Edward Coke—who, though he usually held himself aloof from frivolous amusements, and cared but little for expensive repasts, would with a liberal hand place lordly dishes before lordly guests; and of whom it is recorded in the "Apophthegmes," that when any great visitor dropped in upon him for pot-luck without notice, he was wont to say, "Sir, since you sent me no notice, of your coming, you must dine with me; but if I had known of it in due time I would have dined with you."

From such great men as Lord Nottingham and Lord Guildford, who successively kept high state in Queen Street, Lincoln's Inn Fields, to fat *puisnes* occupying snug houses in closer proximity to the Inns of Court, and lower downwards to leaders of the bar and juniors sleeping as well as working in chambers, the Restoration lawyers were conspicuous promoters of the hilarity which was one of the most prominent and least offensive characteristics of Charles II.'s London. Lord Nottingham's sumptuous hospitalities were the more creditable, because he voluntarily relinquished his claim to 4000*l.* per annum, which the royal bounty had assigned him as a fund to be expended in official entertainments. Similar praise cannot be awarded to Lord Guildford; but justice com-

pels the admission that, notwithstanding his love of money, he maintained the *prestige* of his place, so far as a hospitable table and profuse domestic expenditure could support it.*

Contrasting strongly with the lawyers of this period, who copied in miniature the impressive state of Clarendon's princely establishments, were the jovial, catch-singing, three-bottle lawyers—who preferred drunkenness to pomp; an oaken table, surrounded by jolly fellows, to ante-rooms crowded with obsequious courtiers; a hunting-song with a brave chorus, to the less stormy diversion of polite conversation. Of these free-living lawyers, George Jeffreys was a conspicuous leader. Not averse to display, and not incapable of shining in refined society, this notorious man loved good cheer and jolly companions beyond all other sources of excitement; and during his tenure of the seals, he was never more happy than when he was presiding over a company of sharp-witted men-about-town whom he had invited to indulge in wild talk and choice wine at his mansion that overlooked the lawns, the water, and the trees of St. James's Park. On such occasions his lordship's most valued boon companion was Mountfort, the comedian, whom he had taken from the stage and made a permanent officer of the Duke Street household. Whether the actor was required to discharge any graver functions in the Chancellor's establishment is unknown; but we have Sir John Reresby's testimony that the clever mimic and brilliant libertine was employed to amuse his lordship's guests by ridiculing the

* "After his lordship had the Great Seal, his economy in London was very much altered. He had his stables adjoining to his house, and a formal (good-for-nothing) master of the horse; but he was an old cavalier and a neighbour and acquaintance of the Wroxton family, and could smoke, and taste claret; which qualifications supplied care and skill in his office. There was a *major-domo*, or rather prefect of eating; and having a good stroke of his own, was fit for the employment. His table, which comprised the gentlemen servants, was kept in good order; but the inferior servants ate like harpies at the catch, and, to say truth, most scandalously. . . . . His lordship's custom was after dinner to retire with his company, which were not a few and of the best quality in town, into a withdrawing-room; and the tea-table followed, where his youngest brother officiated; and him his lordship often set at the head of his table, for want of a lady, to carve. His suppers were in another room, and served in a more familiar way, and where his best friends and some (painted) enemies ordinarily assembled. And this he thought the best refreshment the whole day afforded him; and before twelve he retired, and after a touch of his music went to bed."—Roger North's *Life of the Lord Keeper Guildford.*

personal and mental peculiarities of the judges and most eminent barristers. "I dined," records Sir John, "with the Lord Chancellor, where the Lord Mayor of London was a guest, and some other gentlemen. His lordship having, according to custom drunk deep at dinner, called for one Mountfort, a gentleman of his, who had been a comedian, an excellent mimic; and to divert the company, as he was pleased to term it, he made him plead before him in a feigned cause, during which he aped the judges and all the great lawyers of the age in their tone of voice and in their action and gesture of body, to the very great ridicule, not only of the lawyers, but of the law itself, which to me did not seem altogether so prudent in a man in his lofty station in the law; diverting it certainly was, but prudent in the Lord Chancellor I shall never think it." The fun of Mountfort's imitations was often heightened by the presence of the persons whom they held up to derision—some of whom would see and express natural displeasure at the affront; whilst others, quite unconscious of their own peculiarities, joined loudly in the laughter that was directed against themselves.

As pet buffoon of the Tories about town, Mountfort was followed, at a considerable distance of time, by Estcourt—an actor who united wit and fine humour with irresistible powers of mimicry; and who contrived to acquire the respect and affectionate regard of many of those famous Whigs whom it was alike his pleasure and his business to render ridiculous. In the *Spectator*, Steele* paid him a tribute of cordial admiration; and Cibber, noticing the marvellous fidelity of his imitations, has recorded, "This man was so amazing and extraordinary a mimic, that no man or woman, from the coquette to the privy councillor,

* "He had," says the writer of *Spectator* No. 468, "so exquisite a discernment of what was defective in any object before him, that in an instant he could show you the ridiculous side of what would pass for beautiful and just. In the accounts he gave of persons and sentiments, he did not only hit the figure of their faces and manner of their gestures, but he would in his narration fall into their very way of thinking, and this when he recounted passages wherein men of the best wits were concerned, as well as such wherein were represented men of the lowest rank of understanding. I do not know any satisfaction of any indifferent kind I ever tasted so much as having got over an impatience of my seeing myself in the air he could put me when I have displeased him. It is to poor Estcourt I chiefly owe that I am arrived at the happiness of thinking nothing a diminution to me but what argues depravity of will."

ever moved or spoke before him, but he could carry their voice, look, mien, and motion instantly into another company. I have heard him make long harangues, and form various arguments, even in the manner of thinking of an eminent pleader at the bar, with every the least article and singularity of his utterance so perfectly imitated, that he was the very *alter ipse*, scarce to be distinguished from the original."

With the exception of Kenyon, and Eldon, and one or two less conspicuous instances of judicial penuriousness, the judges of the Georgian period were hospitable entertainers. Chief Justice Lee, who died in 1754, gained credit for an adequate knowledge of law by the sumptuousness and frequency of the dinners with which he regaled his brothers of the bench and learned counsellors. Chief Justice Mansfield's habitual temperance and comparative indifference to the pleasures of the table did not cause him to be neglectful of hospitable duties. Notwithstanding the cold formality of Lord Hardwicke's entertainments, and the charges of niggardliness preferred against Lady Hardwicke's domestic system by opposition satirists, Philip Yorke used to entertain the chiefs of his profession with pomp, if not with affability. Thurlow entertained a somewhat too limited circle of friends with English fare and a superabundance of choice port in Great Ormond Street. Throughout his public career, Alexander Wedderburn was a lavish and delightful host, amply atoning in the opinion of frivolous society for his political falsity by the excellence and number of his grand dinners. On entering the place of Solicitor General, he spent 8000*l.* on a service of plate; and as Lord Loughborough he gratified the bar and dazzled the fashionable world by hospitality alike sumptuous and brilliant.

Several of the Georgian lawyers had strong predilections for particular dishes or articles of diet. Thurlow was very fanciful about his fruit; and in his later years he would give way to ludicrous irritability, if inferior grapes or faulty peaches were placed before him. At Brighton, in his declining years, the ex-Chancellor's indignation at a dish of defective wall-fruit was so lively that—to the inexpressible astonishment of Horne Tooke and other guests—he caused the whole of a very fine dessert to be thrown out of the window upon the Marine

Parade. Baron Graham's weakness was for oysters, eaten as a preparatory whet to the appetite before dinner; and it is recorded of him that on a certain occasion when he had been indulging in this favourite pre-prandial exercise, he observed, with pleasant humour—"Oysters taken before dinner are said to sharpen the appetite; but I have just consumed half-a-barrel of fine natives—and speaking honestly, I am bound to say that I don't think I feel quite so hungry as when I began." Thomas Manners Sutton's peculiar *penchant* was for salads; and in a moment of impulsive kindliness he gave Lady Morgan the receipt for his favourite salad—a compound of rare merit and mysterious properties. Bitterly did the old lawyer repent his unwise munificence when he read "O'Donnell." Warmly displeased with the political sentiments of the novel, he ordered it to be burnt in the servants' hall, and exclaimed, peevishly, to Lady Manners, "I wish I had not given her the secret of my salad." In no culinary product did Lord Ellenborough find greater delight than lobster-sauce; and he once gave expression to his high regard for that soothing and delicate compound from the King's Bench, when he decided that persons engaged in lobster-fishery were exempt from legal liability to impressment. "Then is not," inquired his lordship, with solemn pathos, "the lobster-fishery a fishery, and a most important fishery, of this kingdom, though carried on in shallow water? The framers of the law well knew that the produce of the deep sea, without the produce of the shallow water, would be of comparatively small value, and intended that turbot, when placed upon our tables, should be flanked by good lobster-sauce." Eldon's singular passion for fried "liver and bacon" was amongst his most notorious and least pleasant peculiarities. Even the Prince Regent condescended to humour this remarkable taste by ordering a dish of liver and bacon to be placed on the table when the Chancellor dined with him at Brighton. Sir John Leach, Master of the Rolls, was however less ready to pander to a depraved appetite. Lord Eldon said, "It will give me great pleasure to dine with you, and since you are good enough to ask me to order a dish that shall test your new *chef's* powers—I wish you'd tell your Frenchman to fry some liver and bacon for me." "Are you laughing at me or my

cook?" asked Sir John Leach, stiffly, thinking that the Chancellor was bent on ridiculing his luxurious mode of living. "At neither," answered Eldon, with equal simplicity and truth; "I was only ordering the dish which I enjoy beyond all other dishes."

Although Eldon's penuriousness was grossly exaggerated by his detractors, it cannot be questioned that either through indolence, or love of money, or some other kind of selfishness, he was very neglectful of his hospitable duties to the bench and the bar. "Verily he is working off the arrears of the Lord Chancellor," said Romilly, when Sir Thomas Plumer, the Master of the Rolls, gave a succession of dinners to the bar; and such a remark would not have escaped the lips of the decorous and amiable Romilly had not circumstances fully justified it. Still it is unquestionable that Eldon's cabinet dinners were suitably expensive; and that he never grudged his choicest port to the old attorneys and subordinate placemen who were his obsequious companions towards the close of his career. For the charges of sordid parsimony so frequently preferred against Kenyon it is to be feared there were better grounds. Under the steadily strengthening spell of avarice he ceased to invite even old friends to his table; and it was rumoured that in course of time his domestic servants complained with reason that they were required to consume the same fare as their master deemed sufficient for himself. "In Lord Kenyon's house," a wit exclaimed, "all the year through it is Lent in the kitchen, and Passion Week in the parlour." Another caustic quidnunc remarked, "In his lordship's kitchen the fire is dull, but the spits are always bright;" whereupon Jekyll interposed with an assumption of testiness, "Spits! in the name of common sense I order you not to talk about *his* spits, for nothing turns upon them."

Very different was the temper of Erskine, who spent money faster than Kenyon saved it, and who died in indigence after holding the Great Seal of England, and making for many years a finer income at the bar than any of his contemporaries not enjoying crown patronage. Many are the bright pictures preserved to us of his hospitality to politicians and lawyers, wits and people of fashion; but none of the scenes is more charac-

teristic than the dinner described by Sir Samuel Romilly, when that good man met at Erskine's Hampstead villa the chiefs of the opposition and Mr. Pinkney the American Minister. "Among the light trifling topics of conversation after dinner," says Sir Samuel Romilly, "it may be worth while to mention one, as it strongly characterizes Lord Erskine. He has always expressed and felt a strong sympathy with animals. He has talked for years of a bill he was to bring into parliament to prevent cruelty towards them. He has always had some favourite animals to whom he has been much attached, and of whom all his acquaintance have a number of anecdotes to relate; a favourite dog which he used to bring, when he was at the bar, to all his consultations; another favourite dog, which, at the time when he was Lord Chancellor, he himself rescued in the street from some boys who were about to kill it under the pretence of its being mad; a favourite goose, which followed him wherever he walked about his grounds; a favourite macaw, and other dumb favourites without number. He told us now that he had got two favourite leeches. He had been blooded by them last autumn when he had been taken dangerously ill at Portsmouth; they had saved his life, and he had brought them with him to town, had ever since kept them in a glass, had himself every day given them fresh water, and had formed a friendship for them. He said he was sure they both knew him, and were grateful to him. He had given them different names, 'Home' and 'Cline' (the names of two celebrated surgeons), their dispositions being quite different. After a good deal of conversation about them, he went himself, brought them out of his library, and placed them in their glass upon the table. It is impossible, however, without the vivacity, the tones, the details, and the gestures of Lord Erskine, to give an adequate idea of this singular scene." Amongst the listeners to Erskine, whilst he spoke eloquently and with fervour of the virtues of his two leeches, were the Duke of Norfolk, Lord Grenville, Lord Grey, Lord Holland, Lord Ellenborough, Lord Lauderdale, Lord Henry Petty, and Thomas Grenville.

CHAPTER LXXI.

WINE.

FROM the time when Francis Bacon attributed a sharp attack of gout to his removal from Gray's Inn Fields to the river side, to a time not many years distant when Sir Herbert Jenner Fust* used to be brought into his court in Doctors' Commons and placed in the judicial seat by two liveried porters, lawyers were not remarkable for abstinence from the pleasures to which our ancestors were indebted for the joint-fixing, picturesque gout that has already become an affair of the past. Throughout the long period that lies between Charles II.'s restoration and George III.'s death, an English judge without so much as a symptom of gout was so exceptional a character that people talked of him as an interesting social curiosity. The Merry Monarch made Clarendon's bedroom his council-chamber when the Chancellor was confined to his couch by *podagra*. Lord Nottingham was so disabled by gout, and what the old physicians were pleased to call a "perversity of the humours," that his duties in the House of Lords were often discharged by Francis North, then Chief

* In old Sir Herbert's later days it was a mere pleasantry, or bold figure of speech, to say that his court had risen, for he used to be lifted from his chair and carried bodily from the chamber of justice by two brawny footmen. Of course, as soon as the judge was about to be elevated by his bearers, the bar rose; and also, as a matter of course the bar continued to stand until the strong porters had conveyed their weighty and venerable burden along the platform behind one of the rows of advocates, and out of sight. As the *trio* worked their laborious way along the platform, there seemed to be some danger that they might blunder and fall through one of the windows into the space behind the court; and at a time when Sir Herbert and Dr. —— were at open variance, that waspish advocate had on one occasion the bad taste to keep his seat at the rising of the court, and with characteristic malevolence of expression to say to the footmen, "Mind, my men, and take care of that judge of yours—or, by Jove, you'll pitch him out of the window." It is needless to say that this brutal speech did not raise the speaker in the opinion of the hearers.

Justice of the Common Pleas; and though he persevered in attending to the business of his court, a man of less resolution would have altogether succumbed to the agony of his disease and the burden of his infirmities. "I have known him," says Roger North, "sit to hear petitions in great pain, and say that his servants had let him out, though he was fitter for his chamber." Prudence saved Lord Guildford from excessive intemperance; but he lived with a freedom that would be remarkable in the present age. Chief Justice Saunders was a confirmed sot, taking nips of brandy with his breakfast, and seldom appearing in public "without a pot of ale at his nose, or near him." Sir Robert Wright was notoriously addicted to wine; and George Jeffreys drank, as he swore, like a trooper. "My lord," said King Charles, in a significant tone, when he gave Jeffreys the *blood-stone* ring, "as it is a hot summer, and you are going the circuit, I desire you will not drink too much."

Amongst the reeling judges of the Restoration, however, there moved one venerable lawyer, who, in an age when moralists hesitated to call drunkenness a vice, was remarkable for sobriety. In his youth, whilst he was indulging with natural ardour in youthful pleasures, Chief Justice Hale was so struck with horror at seeing an intimate friend drop senseless, and apparently lifeless, at a students' drinking-bout, that he made a sudden but enduring resolution to conquer his ebrious propensities, and withdraw himself from the dangerous allurements of ungodly company. Falling upon his knees he prayed the Almighty to rescue his friend from the jaws of death, and also to strengthen him to keep his newly-formed resolution. He rose an altered man. But in an age when the barbarous usage of toast-drinking was in full force, he felt that he could not be an habitually sober man if he mingled in society, and obeyed a rule which required the man of delicate and excitable nerves to drink as much, bumper for bumper, as the man whose sluggish system could receive a quart of spirit at a sitting and yet scarcely experience a change of sensation. At that time it was customary with prudent men to protect themselves against a pernicious and tyrannous custom, by taking a vow to abstain from toast-drinking, or even from drinking wine at all, for a

certain stated period. In Charles II.'s London, the men who thus "took the pledge not to touch alcohol" (as modern teetotallers would express it), for a greater or less length of time, were numerous. Readers do not need to be reminded how often young Pepys was under a vow not to drink; and the device by which the jovial admiralty clerk strengthened an infirm will and defended himself against temptation was frequently employed by right-minded young men of his date. In some cases, instead of *vowing* not to drink, they *bound* themselves not to drink within a certain period; two persons, that is to say, agreeing that they would abstain from wine and spirits for a certain period, and each *binding* himself in case he broke the compact to pay over a certain sum of money to his partner in the bond. In the same way, when George III. was a boy, prudent men used to *bind themselves* not to lay wagers; and in like manner also commercial partners in our own time occasionally *bind themselves* not to become surety for any one. Young Hale saw that to effect a complete reformation of his life it was needful for him to abjure the practice of drinking healths. He therefore vowed *never again* to drink a health; and he kept his vow. Never again did he brim his bumper and drain it at the command of a toast-master, although his abstinence exposed him to much annoyance; and in his old age he thus urged his grandchildren to follow his example—"I will not have you begin or pledge any health, for it is become one of the greatest artifices of drinking, and occasions of quarrelling, in the kingdom. If you pledge one health, you oblige yourself to pledge another, and a third, and so onwards; and if you pledge as many as will be drunk, you must be debauched and drunk. If they will needs know the reason of your refusal, it is a fair answer, 'that your grandfather that brought you up, from whom, under God, you have the estate you enjoy or expect, left this in command with you, that you should never begin or pledge a health.'"

Jeffreys' *protégé*, John Trevor, liked good wine himself, but emulated the virtuous Hale in the pains which he took to place the treacherous drink beyond the reach of others—whenever they showed a desire to drink it at his expense. After his expulsion from the House of Commons, Sir John Trevor was

sitting alone over a choice bottle of claret, when his needy kinsman, Roderic Lloyd, was announced. "You rascal," exclaimed the Master of the Rolls, springing to his feet, and attacking his footman with furious language, "you have brought my cousin, Roderic Lloyd, Esquire, Prothonotary of North Wales, Marshal to Baron Price, up my back stairs. You scoundrel, hear ye, I order you to take him this instant down my *back stairs*, and bring him up my *front stairs*." Sir John made such a point of showing his visitor this mark of respect, that the young barrister was forced to descend, and enter the room by the state staircase; but he saw no reason to think himself honoured by his cousin's punctilious courtesy, when on entering the room a second time he looked in vain for the claret bottle.

On another occasion Sir John Trevor's official residence afforded shelter to the same poor relation when the latter was in great mental trouble. "Roderic," saith the chronicler, "was returning rather elevated from his club one night, and ran against the pump in Chancery Lane. Conceiving somebody had struck him, he drew and made a lunge at the pump. The sword entered the spout, and the pump, being crazy, fell down. Roderic concluded he had killed his man, left his sword in the pump, and retreated to his old friend's house at the Rolls. There he was concealed by the servants for the night. In the morning his Honour, having heard the story, came himself to deliver him from his consternation and confinement in the coal-hole."

Amongst the eighteenth century lawyers there was considerable difference of taste and opinion on questions relating to the use and abuse of wine. Though he never, or very seldom, exceeded the limits of sobriety, Somers enjoyed a bottle in congenial society; and though wine never betrayed him into reckless hilarity, it gave gentleness and comity to his habitually severe countenance and solemn deportment—if reliance may be placed on Swift's couplet—

> "By force of wine even Scarborough is brave,
> Hall grows more pert, and Somers not so grave."

A familiar quotation that alludes to Murray's early intercourse with the wits warrants an inference that in opening manhood

he preferred champagne to every other wine; but as Lord Mansfield he steadily adhered to claret, though fashion had taken into favour the fuller wine stigmatized as poison by John Home's famous epigram—

> "Bold and erect the Caledonian stood;
> Old was his mutton, and his claret good.
> 'Let him drink port,' an English statesman cried:
> He drank the poison and his spirit died."

Unlike his father, who never sinned against moderation in his cups, Charles Yorke was a deep drinker as well as a gourmand. Hardwicke's successor, Lord Northington, was the first of a line of port-wine-drinking judges that may at the present time be fairly said to have come to an end—although a few reverend fathers of the law yet remain, who drink with relish the Methuen drink when age has deprived it of body and strength. Until Robert Henley held the seals, Chancellors continued to hold after-dinner sittings in the Court of Chancery on certain days of the week throughout term. Hardwicke, throughout his long official career, sat on the evenings of Wednesdays and Fridays hearing causes, while men of pleasu were fuddling themselves with fruity vintages. Lord Northington, however, prevailed on George III. to let him discontinue these evening attendances in court. "But why," asked the monarch, "do you wish for a change?" "Sir," the Chancellor answered with delightful frankness, "I want the change in order that I may finish my bottle of port at my ease; and your majesty, in your parental care for the happiness of your subjects, will, I trust, think this a sufficient reason." Of course the king's hearty laughter ended in a favourable answer to the petition for reform, and from that time the Chancellor's evening sittings were discontinued. But ere he died, the jovial Chancellor paid the penalty which port exacts from all her fervent worshippers, and he suffered the acutest pangs of gout. It is recorded that as he limped from the woolsack to the bar of the House of Lords, he once muttered to a young peer who watched his distress with evident sympathy—"Ah, my young friend, if I had known that these legs would one day carry a Chancellor, I would have taken better care of them when I was at your age." Unto this had come the handsome legs of young

Counsellor Henley, who, in his dancing days, stepped minuets to the enthusiastic admiration of the *belles* of Bath.

Some light is thrown on the manners of lawyers in the eighteenth century by an order made by the authorities of Barnard's Inn, who, in November, 1706, named two quarts as the allowance of wine to be given to each mess of four men by two gentlemen on going through the ceremony of "initiation." Of course, this amount of wine was an "extra" allowance, in addition to the ale and sherry assigned to members by the regular dietary of the house. Even Sheridan, who boasted that he could drink any *given* quantity of wine, would have thought twice before he drank so large a given quantity, in addition to a liberal allowance of stimulant. Anyhow, the quantity was fixed—a fact that would have elicited an expression of approval from Chief Baron Thomson, who, loving port wine wisely, though too well, expressed at the same time his concurrence with the words and his dissent from the opinion of a barrister, who observed—"I hold, my lord, that after a good dinner a certain quantity of wine does no harm." With a smile, the Chief Baron rejoined—"True, sir; it is the *uncertain* quantity that does the mischief."

The most temperate of the eighteenth-century Chancellors was Lord Camden, who required no more generous beverage than sound malt liquor, as he candidly declared, in a letter to the Duke of Grafton, wherein he says—"I am, thank God, remarkably well, but your grace must not seduce me into my former intemperance. A plain dish and a draught of porter (which last is indispensable) are the very extent of my luxury." For porter, Edward Thurlow, in his student days, had high respect and keen relish; but in his mature years, as well as still older age, full-bodied port was his favourite drink, and under its influence were seen to best advantage those colloquial powers which caused Samuel Johnson to exclaim—"Depend upon it, sir, it is when you come close to a man in conversation that you discover what his real abilities are; to make a speech in a public assembly is a knack. Now, I honour Thurlow, sir; Thurlow is a fine fellow; he fairly puts his mind to yours." Of Thurlow, when he had mounted the woolsack, Johnson also observed—"I would prepare myself for no man in England

but Lord Thurlow. When I am to meet him, I would wish to know a day before." From the many stories told of Thurlow and ebriosity, one may be here taken and brought under the reader's notice—not because it has wit or humour to recommend it, but because it presents the Chancellor in company with another port-loving lawyer, William Pitt, from whose fame, by-the-by, Lord Stanhope has recently removed the old disfiguring imputations of sottishness. "Returning," says Sir Nathaniel Wraxall, a poor authority, but piquant gossip-monger, "by way of frolic, very late at night, on horseback, to Wimbledon, from Addiscombe, the seat of Mr. Jenkinson, near Croydon, where the party had dined, Lord Thurlow, the Chancellor, Pitt, and Dundas, found the turnpike gate, situate between Tooting and Streatham, thrown open. Being elevated above their usual prudence, and having no servant near them, they passed through the gate at a brisk pace, without stopping to pay the toll, regardless of the remonstrances and threats of the turnpike man, who, running after them, and believing them to belong to some highwaymen who had recently committed some depredation on that road, discharged the contents of his blunderbuss at their backs. Happily he did no injury."

Throughout their long lives the brothers Scott were steady, and, according to the rules of the present day, inordinate drinkers of port wine. As a young barrister John Scott could carry more port with decorum than any other man of his inn; and in the days when he is generally supposed to have lived on sprats and table-beer, he seldom passed twenty-four hours without a bottle of his favourite wine. Prudence, however, made him careful to avoid intoxication, and when he found that a friendship often betrayed him into what he thought excessive drinking, he withdrew from the dangerous connexion. "I see your friend Bowes very often," he wrote in May 1778, a time when Mr. Bowes was his most valuable client; "but I dare not dine with him above once in three months, as there is no getting away before midnight; and, indeed, one is sure to be in a condition in which no man would wish to be in the streets at any other season." Of the quantities imbibed at these three-monthly dinners, an estimate may be formed from the following story. Bringing from Oxford to London

that fine sense of the merits of port wine which characterized the thorough Oxonian of a century since, William Scott made it for some years a rule to dine with his brother John on the first day of term at a tavern hard by the Temple; and on these occasions the brothers used to make away with bottle after bottle not less to the astonishment than the approval of the waiters who served them. Before the decay of his faculties Lord Stowell was recalling these terminal dinners to his son-in-law Lord Sidmouth, when the latter observed, "You drank some wine together, I dare say?" Lord Stowell, modestly, "Yes, we drank some wine." Son-in-law, inquisitively, "Two bottles?" Lord Stowell, quickly putting away the imputation of such abstemiousness, "More than that." Son-in-law, smiling, "What, three bottles?" Lord Stowell, "More." Son-in-law, opening his eyes with astonishment, "By Jove, sir, you don't mean to say that you took four bottles?" Lord Stowell, beginning to feel ashamed of himself, "More; I mean to say we had more. Now, don't ask any more questions."

Whilst Lord Stowell, smarting under the domestic misery of which his foolish marriage with the Dowager Marchioness of Sligo was fruitful, sought comfort and forgetfulness in the cellar of the Middle Temple, Lord Eldon drained magnums of Newcastle port at his own table. Populous with wealthy merchants, and surrounded by an opulent aristocracy, Newcastle had used the advantages given her by a large export trade with Portugal to draw to her cellars such superb port wine as could be found in no other town in the United Kingdom; and to the last the Tory Chancellor used to get his port from the canny capital of Northumbria. Just three weeks before his death the veteran lawyer, sitting in his easy-chair and recalling his early triumphs, preluded an account of the great leading case, "Akroyd *v.* Smithson," by saying to his listener, "Come, Farrer, help yourself to a glass of Newcastle port, and help me to a little." But though he asked for a little, the old earl, according to his wont, drank much before he was raised from his chair and led to his sleeping-room. It is on record, and is moreover supported by unexceptionable evidence, that in his extreme old age, whilst

he was completely laid upon the shelf, and almost down to the day of his death, which occurred in his eighty-seventh year, Lord Eldon never drank less than three pints of port daily with or after his dinner.

Of eminent lawyers who were steady port-wine drinkers, Baron Platt—the amiable and popular judge who died in 1862, aged seventy-two years—may be regarded as one of the last. Of him it is recorded that in early manhood he was so completely prostrated by severe illness that beholders judged him to be actually dead. Standing over his silent body shortly before the arrival of the undertaker, two of his friends concurred in giving utterance to the sentiment: "Ah, poor dear fellow, we shall never drink a glass of wine with him again;" when, to their momentary alarm and subsequent delight, the dead man interposed with a faint assumption of jocularity, "But you will though, and a good many too, I hope." When the undertaker called he was sent away a genuinely sorrowful man; and the young lawyer, who was "not dead yet," lived to old age and good purpose.

CHAPTER LXXII.

BEFORE AND AFTER THE REVOLUTION.

ENOUGH has been said in the foregoing pages to show that the independence and purity, which in recent times have universally characterized the English bench, were not always found amongst our dispensers of justice in days when they derived their incomes chiefly from fees, and were removable at the monarch's discretion; and when conscientious Chancellors, anxious to create a bench of judges who should neither stand in servile awe of the crown, nor be dangerously eager for the voluntary contributions of suitors, abstained from recommending for judicial preferment those members of the bar who were not known to possess private fortunes.* Enough also has been advanced to satisfy the reader that the fearless independence of the bar—a quality about which the sedition advocates, as they were termed, of George III.'s time, delighted to utter sonorous platitudes—is not less conspicuous at the present date than it was in reigns when a sovereign not only exercised a strong influence on counsel through pliant judges, but often condescended personally to express gratitude to barristers who defended, and enmity to barristers who opposed, his encroachments. Indeed, however much the admission may wound lawyers who are keenly interested in the historic honour of their order, it must be confessed that in-

* So well was this principle understood in the time of James I., that when Chief Justice Popham sent to Egerton the names of four aspirants to the bench, he took care to inform his lordship that they were all rich men. "I have thought good," wrote Popham, "to recommend these names to your L. to be preferred to hys Ma^tie to make hys choyse of two, if it may seeme good to your L., or to add or to alter the same as your L. shall thynk best: my brother Danyell, my brother Williams, my brother Tanfyld, and my brother Altham, all men learned and of good estate."—*Egerton Papers.*

tegrity was by no means common upon the bench, and that courage was far from universal at the bar, at those periods of English history when judges saw their profit in corruption, and when a character for nice honour was not calculated to bring a young barrister into favour with the distributors of patronage.

Nor is the existing etiquette of the Law much more ancient than its morality.* In olden times our great advocates exercised their profession in a manner that would occasion lively scandal at the present day. They publicly and in their own persons touted for business; they made time-bargains with their clients; they accepted for their services payment in kind; and they constantly performed work which no solicitor of the present day would do with his own hand. Long after the serjeants used to visit St. Paul's daily during term, after twelve o'clock dinner, and standing at their pillars sell legal opinions just as orange-girls vend oranges in the public ways,—it was their custom to communicate with their lay employers without the intervention of attorneys.

Early in the seventeenth century certain members of the bar laid themselves out specially for chamber-practice; and during the Commonwealth and under Charles II. the conveyancers became a distinct division of the practising bar. Thus Orlando

* In every period of its history the law has comprised within its ranks men of stainless probity and noble principles; but the high reputation for moral worth as well as intellectual ability, which the profession has enjoyed for several generations (notwithstanding the occurrence of many painful scandals, and notwithstanding the unqualified blackness of its notorious black sheep), must be attributed to the reforms introduced at the great Revolution of '88. Of course the law did not in a day or even in a single generation discard the low tone and moral laxity which prevailed amongst her members under the Stuarts; but no one familiar with the annals of Westminster Hall will deny that James II.'s fall was followed by a most striking change for the better in every grade of legal practitioners. Judges ceased to scold like tipsy women; counsellors learnt to contend with an appearance of decorum when their passions were most excited; and attorneys assumed honesty when they did not really possess it. With the course of time the court manner of barristers grew more and more gentlemanlike, and it became more and more generally accepted amongst them that professional privilege did not entitle them to infringe the laws of honour. For several years, usages that savoured of corruption lingered in the courts, and so late as the Wilkes and Junius trials, a wearer of the ermine (Sir Richard Aston) is believed to have accepted a bribe; but steadily the moral atmosphere of the law became purer, and its tone identical with that of the highest classes of society.

Bridgeman was an eminent chamber-counsel and conveyancer during the ascendancy of Cromwell; and his course was not exceptional amongst the few loyalist lawyers of that period who chose to work as draughtsmen, (indicating their political sympathies by the literal peculiarities of their work,) rather than seek business in Westminster Hall, where they would be compelled to express respect for republican judges. Francis North's skill at conveyancing is especially mentioned by his biographer, who observes, "I can with assurance say, that he was no less expert, at that sort of practice, than any one of his time, although professing no other." Francis North had a considerable amount of conveyancer's business; and not only did he take instructions from his clients without the intervention of the inferior branch of the profession, but in the earlier years of his professional career he habitually did the work of a mere law-writer. "At the beginning of his business," says Roger, "he had no clerk, and not only drew but ingrossed instruments himself, and, when he was in full practice, he scrupled not to write anything himself. A lady in Norfolk told me he made up some agreements for her; and, at the sealing, a bond was wanted, and there was no attorney, or clerk, at hand to draw it, so they were at a stand; and then he took the pen, and said, 'I think it will not foul my fingers if I do it myself;' and thereupon he made the bond, and it was sealed. I have often heard him complain of the community of the conveyancers, and say that some of them were pack-horses, and could not go out of their road."

It appears also that as early as the seventeenth century young barristers were accustomed to "devil" for the leaders of Westminster Hall—*i.e.*, to assist eminent counsellors who had more business than they could transact without professional coadjutors; the assistance being rendered for the sake of introduction to attorneys and practice. Thus Francis North for a while devilled in Sir Geoffrey Palmer's chambers, and at a later period of his career extended a not disinterested patronage to Syderfin, the famous reporter, whose knowledge of law won the respect of the Temple gallants, who, notwithstanding their homage to his attainments, could not forbear from deriding his uncouth appearance, stooping figure, and singularly

awkward gait. His connexion with Francis North was very profitable to Syderfin, and would have been productive of still greater advantage had he lived longer; but before North placed his head on the pillow of the Common Pleas, the reporter had departed to another world, leaving an ample fortune to the pretty girl whom he married whilst she was still under age, and whose forcible removal to France after her husband's death by "Sarsfield the raptor" supplied Charles II.'s London with a most exciting *cause célèbre*.

But though Charles II.'s bar adopted some of our existing arrangements for subdividing legal labour, and controlling the relations of lawyers and clients, many years passed before barristers devised all, or unanimously observed any, of the regulations which make up the code of bar etiquette at the present time. In the seventeenth century clients almost always insisted on having personal interviews with their counsel, and though their attorneys or solicitors usually conducted them to counsel's chambers* and were present during the conferences, no member of the inferior branch of the profession deemed himself affronted or ill-used if a client chose to confer with his advocate without the presence of a third person. Long into the following century barristers of every grade used to act for clients without the co-operation of the inferior branch in cases where no process of court required the employment of an attorney or solicitor; and they were accustomed to receive their lay clients in the coffee-houses fast by Westminster Hall and the Inns of Court, just as the eighteenth-century physician used to sit at an appointed hour of each day in his public coffee-room, and write prescriptions for such patients as came to consult him whilst he drank his wine. Hogarth's 'Marriage à la Mode' contains amusing illustrations of the change in legal etiquette since the time when a young barrister did not think it beneath his dignity to draw up a marriage-settlement, and personally superintend its execution in the house of a wealthy client.

* Speaking of his eminent brother, Roger North says—"He could, over night, just, and but just, admit his clients and their agents;" but though the client and agent are thus described as visiting together, Francis North, in his palmiest days, used to act for clients without the intervention of an attorney.

Our estimate of the prevailing tone of the bar in past times* is not heightened by the indecorous violence which characterized the contentions of eminent advocates, and which often marked their treatment of witnesses, and prisoners on trial. Coke's insolence to Bacon and brutality to Raleigh are illustrations of professional tone as well as of personal disposition. The 'Examen' furnishes us with a delightful piece of testimony that in Charles II.'s time rival advocates seldom argued a cause of public interest without deafening uproar and indecent altercation. Speaking of his brother's intercourse with Sir William Jones, the author of the 'Examen' observes: "And one thing betwixt them was admirable, which is, that, notwithstanding successes of preferments created uneasiness (on one side at least), and; tempers considered as well as principles, it was naturally impossible there should be any great intimacy, but rather the contrary, yet both were so wise as to maintain a fair correspondence; and although in the course of their practice they were often chosen on purpose to resist each other, especially in hot factious causes, yet they never clashed in words, or made any show of private animosity, *as commonly, in such cases, is done with great noise and indecency.* But they conversed, visited, and entertained familiarly." All that the severest censor of Old Bailey manners can say, is that the proceedings of that court are sometimes carried on with "great noise and indecency." It has already been observed that the overbearing and reprehensible tone of the Restoration bar, notwithstanding the immediate good results of the revolution, was not speedily dismissed; and even long after gentler manners had obtained general acceptance in Westminster Hall our courts of justice retained a taint of their ancient savagery, and alike on the bench and at the bar men of harsh and insolent tempers uttered words which, if they fell from a judge's lips in these days, would draw upon him the censure of all decent society.

* In the 'Judges of England,' Mr. Foss observes—"Cecil, Earl of Salisbury, does not give a flattering character of the lawyers in this reign. In 1610, he tells Sir Henry Yelverton—'Most of our lawyers and judges, though learned in their profession, yet not having other learning, they upon a question demanded, bluntly answer it, and can go no further, having no vehiculum to carry it by discourse or insinuation to the understanding of others.'"

Thurlow's treatment of Pepper Arden, and Kenyon's bilious petulance, may be cited as comparatively recent instances of misconduct on the bench; whilst as a parallel case of unseemly behaviour at the bar may be mentioned the contumacious demeanour of the serjeants who so completely deprived poor Chief Justice Sir James Mansfield of his peace of mind that he used to cry aloud in his dreams, "D—— the serjeants!"

But nothing illustrates more forcibly the change in legal etiquette than the license which permitted young barristers in the seventeenth century to ask attorneys for briefs, and to seek employment from suitors.

In every generation the bar has been a profession with a large number of competent but disappointed candidates for employment. Under Henry VIII. and Elizabeth a sudden success at the bar was not more frequent than it is at the present time. Francis Bacon's elevation came to him after years of labour and expectation, and amongst his contemporaries there were many able lawyers who waited in vain for success throughout long lives. The length of the period assigned to preliminary study at the Inns of Court, the ancient rule which forbade a barrister to raise his voice in Westminster Hall until two years had elapsed since his call, and the provisions which for many generations secured the best business at the bar to the wearers of the coif—usually men of reverend years, and necessarily advocates of considerable standing—apart from biographic evidence, would prove that in olden time very young men were not expected to hold leading positions at the bars of their sovereign's courts. The seventeenth century, as a period of civil commotion* and intense political excitement, was upon the whole favourable to young talent that was not fettered by principle. In Charles II.'s reign mere boys forced themselves into leading positions in Westminster Hall by timely and loud assertion of principles in favour with the king's party; whilst others gained their price

* Political excitement, when it affects the law courts at all, has almost invariably been productive of early successes at the bar. The number of early successes at the Irish bar is greatly due to the constant political agitation of the Emerald Isle. So, also, the unsettled state of England in George III.'s time favoured the junior bar. Erskine made his sudden success by political harangues. In calmer times he certainly would not have succeeded so quickly or so easily.

at court by advocating popular opinion so boldly and cleverly, that the dominant faction deemed it prudent to buy their conversion and support. But even at a time when drunken boys could force themselves to the bench, success as a rule came late at the bar. Roger North's 'Discourse' leaves us no room to doubt that, under ordinary circumstances the lawyers of his time worked their way upwards by small degrees and slow paces, with the exception of the few who played a bold and perilous game in the political arena. In the next three generations fortunate barristers rose in most cases slowly, though more quickly than at the present time. Under the first three Georges there were some conspicuous instances of early success, such as Philip Yorke, who rose to be Solicitor General before he had completed the thirtieth year of his age, and the fifth of his standing at the bar; and John Scott, who was in the full tide of his prosperity many years before he plucked his first grey hair. But these cases were few. On the other hand there is reason to question whether the stories of long neglect followed by conspicuous success—stories that give a romantic tone to certain popular memoirs of eminent lawyers—should not be classed amongst biographic fictions. The familiar tale of Lord Camden's sudden rise after years of poverty and fruitless endeavour rests upon such unsatisfactory evidence that it must be regarded as apocryphal. And the same criticism must be made with regard to similar stories which have encouraged many a briefless barrister to persevere in a course of misdirected effort and overwhelming disappointment. Men have become judges whose opening years at the bar were not marked by brilliant fortune; but it may be doubted whether in recent times a barrister ever became a leader in his profession who either failed to get a certain amount of substantial business in the first three years after his call, or having obtained some measure of recognition, was unable to increase his connexion year by year. As a general rule it may be stated positively that the barrister will do just nothing in his profession who, having taken proper means to achieve success, is without practice at the end of the fifth year after his call: and it may be added that men, who after five years' trial of the bar are without clients, would display more

prudence and courage by acknowledging their defeat and seeking another career, than by doggedly persisting in the path of failure. Charles Yorke's slow progress in the first years of his professional career caused him much despondency; but his income steadily rose from 121*l.* in the first year to 1000*l.* in the seventh, and therefore he had reason to hope that he would one day be amongst the "fortunate few." The slow but manifest progress of the second Yorke in these seven years may be taken as the ordinary course of "juniors" who eventually win the prizes of advocacy.

But though rapid successes were exceptional in old as well as recent times, there is no doubt that formerly young barristers had many opportunities and means for pushing themselves into practice, from which they are now debarred by etiquette. Without incurring reprimand or obloquy they might drink with attorneys at taverns, push their way into solicitors' offices on nominal pretexts, and commend themselves to the notice of strange suitors from the country by accosting them and gossiping with them in Westminster Hall. From the days of Jeffreys and Wright to the days of Thurlow and Wedderburn; from the rise of coffee-houses to the rise of club-houses, the young advocate talked himself into notoriety at public ordinaries and common tables. Even when he exercised the arts by which Mr. Robert Sawyer, of medical notoriety, impressed the public with a sense of the magnitude of his practice, he provoked nothing worse than the ridicule of his competitors. "After he was called to the bar," says Roger North of Jeffreys, "he used to sit in coffee-houses and order his man to come and tell him that company attended him in his chamber, at which he would huff, and say; 'Let them stay a little; I will come presently.' This made a show of business." This sort of personal puffery was common amongst the legal, as well as the medical practitioners of the town in the earlier half of the eighteenth century.

Their extreme obsequiousness to the bench was another disagreeable feature of the seventeenth-century advocates. Whilst the Stuarts demanded servile obedience from their judges, similar submissiveness was exacted from the bar by time-serving judges; and to such lengths did wearers of the ermine go in

showing aversion and contempt for obnoxious counsel, that barristers seldom ventured to hold briefs in a court where they had incurred the personal hostility of the bench. To play the toady to chiefs and puisnes was an art most carefully practised by rising juniors; and the barrister who by flattery or congenial humour was so fortunate as to gain the ear of the court, frequently exercised his influence most unscrupulously. Roger North informs us, as though it were much to his brother's credit, that Lord Guildford, in the days of his practice at the bar, was a consummate sycophant towards every judge whom he addressed; and even Maynard, a man of far higher spirit, was mean enough to practise on the foibles of his judges in a manner that at the present time would be deemed very dishonourable. Of the latter counsel it is recorded that, without a single word of protest, he would sacrifice a trifling cause or a poor client to a judge's error, in order that, having pleased the judge by his apparent acquiescence, he might with greater ease lead him by the nose in a case concerning larger interests, or the interests of a more powerful client. Such tricky conduct would not be tolerated in Westminster Hall at the present time; though not many years have elapsed since an eminent counsel used to gratify a particular judge with an occasional bad point, so that his lordship, pleased with his own cleverness in exposing the error, might be amiably disposed to commend the strong arguments of the wily counsel.

An ingenious writer to whom the compiler of these volumes is indebted for many suggestions, is of opinion that the custom of addressing puisne judges in court by the title of "your lordship" originated in a desire on the part of the bar to win the favour of the bench. If this explanation be true, it would tend to show that however much the Revolution effected for the independence of judges, it did not discourage sycophancy at the bar; for the custom in question commenced in the eighteenth century. It seems, however, more probable that the change of address took place in deference to the expressed wishes of authority at the time when the crown made it a rule to knight every new puisne on his appointment.

Some of the modes by which Scarlett gained his ascendancy over Lord Tenterden were scarcely less discreditable to the

advocate than the Chief Justice. Familiar with the weaknesses of the chief's nature, Scarlett used to play upon him as though he belonged to an inferior species; but on a memorable occasion his lordship was enlightened as to the ignominious thraldom in which he was held: Interrupting Mr. Adolphus, the criminal advocate, Scarlett superciliously observed—"Mr. Adolphus, there is a wide difference between the practice of this court and the usages of the Old Bailey." With perfect coolness, and a voice that bit itself into the ear of every listener, Adolphus answered—"I know it well. There—the judge rules the advocates; here—an advocate rules the judge."

Amongst comparatively modern instances of judicial partiality towards certain members of the bar may be noticed the strong preference which Lord Mansfield—an old Westminster boy and Christ Church student—used to manifest for barristers who had been educated at his school and college. A strong conviction that the Chief Justice habitually displayed prejudice against counsel who had not been a student of those colleges caused John Scott to retire from the King's Bench and devote himself to Chancery practice, at a time when the Chancery bar did not number twenty members, and when the status of the Equity counsel was decidedly beneath that of a Common Law barrister.

PART XIV.—TEMPORA MUTANTUR.

CHAPTER LXXIII.

ATTORNEY-AT-LAW.

MAKING one of his wittiest and most illiberal speeches, Dr. Johnson observed to a numerous company, concerning a stranger who had just quitted the room—"I don't care to speak ill of any man behind his back, but I believe the gentleman who has taken his departure is an attorney." The pungency of the satire causes the reader to overlook its injustice; but so unpleasant is its ungenerous narrowness that it has done far more to lower the speaker's character for amiability than to heighten his reputation for colloquial humour.

Illustrating this same social disfavour in which attorneys were for several generations placed by the prejudices of the humble and the insolence of the great, a good story was told by Sir Walter Scott of Sir Allan M'Lean, who was driven by Scotch attorneys from the comparatively civilized regions of North Britain to Inchkenneth, in which picturesque and verdant islet he entertained Dr. Johnson and his friend Boswell. Surveying from the windows of Carron Lodge a wide and noble landscape, studded with the seats of opulent residents, Sir Allan pointed to a well-placed mansion in the distance, and asked the name of its owner. "Mr. ——, the writer to the signet," was the answer. "Tut!" exclaimed Sir Allan, testily, pointing to a spot somewhat nearer the river Carron; "I mean that house—there." His host replied—"Oh, that belongs to a very worthy and honest fellow, Jamie ——, another writer to the signet." "Umph," interposed Sir Allan, beating a tattoo with his foot; "and yon smaller house—whose is that?" "His name? Bless me, I forget it; but he is a Stirling man—and a writer to the signet." This was too much for Sir Allan's

powers of endurance. "My dear friend," he remarked to his entertainer, "you have a fine situation here, and a lovely landscape; but d—— your neighbourhood!"

One is unable to ascertain with certainty the degree of esteem or disesteem in which persons acting professionally as representative litigants in *turn* for principals unable to attend personally to their legal interests, were held in times when the custom which permits suitors to act by proxy was still a novel regulation. But there are reasons for thinking that under the Plantagenets attorneys were by no means contemptible personages. Under Edward I. pleaders and barristers who had taken the serjeant's degree frequently acted as the proxies or attorneys of parties in suits; and throughout many generations practising attorneys were in a considerable proportion of cases Inns-of-Court men. Moreover at a later period, when the Four Inns had been closed to the inferior branch of the profession, attorneys were required to be members of one of the Inns of Chancery. The readiness with which competent practitioners were found for the lower departments of legal practice also sustains an inference that their position was reputable as well as lucrative. In Edward III.'s reign the kingdom contained four hundred attorneys, and a century later the number of English attorneys had increased to so inconvenient a magnitude that it was found necessary to reduce* their ranks.

In Henry VIII.'s London practising attorneys were frequently Templars, or members of Gray's Inn or Lincoln's Inn; and notwithstanding various orders which forbade gentlemen of the Four Inns to act as attorneys or solicitors, the same state of things existed throughout the Elizabethan period. By the Orders of the Middle Temple (An. 1635, 11 Car. I.) it was ordered—"That the Acts of Parliament of this House, touching none admittance of Common Attorneys, made 25 Junii, 3 & 4 Ph. & M., be from thenceforth duly observed: And Further that a list be made of the names of the present attorneys and solicitors of this house; and entered into the Parliament Book; and if any gentleman from henceforth, after he shall be

* 32 Hen. VI. reduced the attorneys of Norfolk and Suffolk from eighty to fourteen, and prohibited their increase. In 1861, it was calculated that the English attorneys, actually on the rolls—either in practice or retirement—numbered about 13,000.

admitted, shall then become an Attorney, or shall practice as a Common Attorney, or Solicitor in any of his Majesties courts, shall *ipso facto* be expelled the house." It is noteworthy that whilst this order refers to an older order of Philip and Mary, it takes no notice of the Orders made by Lord Coventry and all the Judges (15 Ap., 6 Car. I.), wherein the learned judges observe,—"For that there ought alwayes to be observed a difference between Utter Barristers, Readers in Court, and Apprentices in Law, which are the principal persons next unto Serjeants and Judges in administration of Justice; *and Attorneys and Solicitors, which are but ministerial persons of an inferior nature;* therefore it is order'd that from henceforth no common Attorney or Solicitor shall hereafter be admitted of any of the four Houses of Court." That the afore-mentioned order of Philip and Mary did not exclude attorneys from the Middle Temple in the reign of Elizabeth, we know from Dugdale, who in his notes concerning that society says—"In 17 Eliz. the new Skreen in the Hall was made; towards which every Master of the Bench was assessed at 20*s.*; every Master of the Utter-Barr, Officer, and Common Attorney at 10*s.*, and each person else of this society at 6*s.* 8*d.*"*

But even at a time when the Four Inns contained a considerable number of attorneys and solicitors, a wide difference existed between the condition of the average attorney and the status of the ordinary utter-barrister. Indeed many persons affected to regard an attorney not as a lawyer, but as a mere servant for carrying out the instructions of lawyers. Bishop Earle's satirical sketch of 'An Attorney,' in the *Microcosmographie,* shows the low estimation in which the inferior practi-

* When "ministerial persons of an inferior nature" could no longer gain admittance into the superior law colleges, they continued to frequent the Inns of Chancery; and in 1654 the upper bench made an order (renewed exactly half a century later by judges using still stronger terms) that every attorney should be admitted a member of one of the Inns of Court or Chancery. In face of the orders of the Four Inns, this order of the bench operated by driving the attorneys into such Inns of Chancery as cared to receive them; but it is probable that the order was at no time rigidly enforced, and that it became altogether a dead letter soon after its renewal at the opening of the eighteenth century. Barnard's Inn was a popular college with attorneys under William and Mary, but in James I.'s reign it resisted the intrusion of the inferior order.

tioners of law were held by the nobility and chief gentry of Charles I.'s England. "An Attorney—His ancient beginning," says the bishop, "was a blue coat, sine livery, and his hatching under a lawyer; whence though but pen-feathered hee hath now nested for himself, and with his hoorded pence purchast an office. Two desks, and a quire of paper sat him up, where he now sits in state for all commers. Wee can call him no great author, yet he writes very much, and with the infamy of the court is maintained in his libels. He has some snatch of a scholler, and yet uses Latin very hardly, and lest it should accuse him cuts it off in the midst, and will not let it speake out. He is, contrary to great men, maintained by his followers, that is, his poore country clients, that worship him more than their landlord, and be they never such churles, he lookes for their courtesie. *He first racks them roundly himselfe, and then delivers them to the lawyer for execution.* His looks are very solicitous, importing much haste and dispatch, he is never without his hands full of businesse, that is, of paper. His skin becomes at last as dry as parchment, and his face as intricate as the most winding course. *He talkes statutes as fiercely as if he had mooted seven yeares in the Innes of Court;* when all his skill is stuck in his girdle, or in his office window. Strife and wrangling have made him rich, and he is thankful to his benefactor, and nourishes it. If he live in a country village, he makes all his neighbours good subjects; for there shall be nothing done but what there is law for. His businesse gives him not leave to thinke of his conscience, and when the time or terme of his life is going out, for doomes-day hee is secure, for hee hopes he hath a tricke to reverse judgment."* This sketch is especially noticeable for the distinction which it draws between attorneys and barristers, by the words reprinted in italics. Indeed Bishop Earle scarcely looked upon the attorney

* Those who are curious about our social history should read the *Microcosmographie*. The bishop's sketch of "A Serjeant or Catch-Pole," *i.e.*, bum-bailiff or sheriff's officer, might be inserted with propriety in this Book About Lawyers. Not less interesting is the character of "an University Dunne," who, says Bishop Earle, "is a gentleman's follower cheaply purchast, for his owne money ha'd hired him. Hee is an inferior creditor, of some ten shillings or downe-wards, contracted for house-hire, or perchance drinke, too weake to be put in a suite, and he arrests your modesty."

as an acknowledged member of the legal profession; whereas amongst the humbler sort of our country people the word lawyer now-a-days means an attorney, and is never applied to a member of the bar.

During the seventeenth century attorneys and solicitors grew in riches, if not in honour. The Commonwealth squibs and tracts represent them as living with no less pomp and luxury than the country squires, and as amassing large fortunes which enabled their sons to purchase the lands of impoverished gentry. Captain John Somers, the father of Lord Chancellor Somers, may be taken as an instance of the affluence, gentility, and power which were possessed by country attorneys of the highest grades in the time of the Commonwealth. As to the relations and intercourse maintained by country attorneys of this period with their brethren in London, there is a want of definite information; but a passage in the 'Life of Lord Keeper Guildford,' shows that so early as Cromwell's time London solicitors and attorneys had begun to act as agents for rural practitioners. "His lordship," says Roger, in one of the many passages of his book that throw light on the unsatisfactory state of legal etiquette in the seventeenth century, "while he was a student and during his incapacity to practise above-board, was contented to underpull, as they call it, and manage divers suits for his country friends and relations, 'which,' he said, 'was useful to him in letting him into a knowledge of the offices, and the methods used there,' for he was always in person present at every turn in whatever business he undertook. In a cause for his father against Sir John Lawrence, he recovered 300*l.*, and brought in a very moderate bill of charges, which pleased his father, who expected a great deal more. He made use of Mr. Baker, a Solicitor in Chancery, who for his singular integrity was famous, and on this occasion ought to be remembered with honour. His lordship had a veneration for this Mr. Baker as long as he lived. When his lordship paid his bill, the virtuous solicitor laid by a sum (according to an usual rate) for him, saying that it was their way, and they were allowed at the offices somewhat for encouragement to them that brought business. By this we see what country and other attornies get by Chancery suits.

But his lordship would not touch a penny, but turned it back upon the good man's hands."

As a companion-picture to Bishop Earle's *Character of an Attorney*, drawn in the seventeenth century, may be taken Ned Ward's *Character of a Petty-Fogger*, which was penned about a hundred years later. "He is an amphibious monster," says the *London Spy*, describing the law attorney of Queen Anne's London, "that partakes of two natures, and those contrary. He's a great lawyer both of peace and enmity, and has no sooner set people together by the ears but is soliciting the law to make an end of the difference. * * * His affection to the law proceeds from the litigiousness of his ancestors, who brought the family to beggary. Therefore there is nothing he abhors more than poverty in a client. He is never more proud than when he has a fee for a topping council, and would make anybody believe Serjeant Such-an-one and he are as great friends as the devil and the Earl of Kent. *He gets money in term time by sitting in a tavern, for every client that comes in he makes pay sixpence a glass till he has sold a quart or two at that rate, and puts the surplus in his pocket.* He looks always as busie as a merchant in 'Change time; and if ever a cause is carried that he's concerned in, he tells you its owing to his management. He is a great lover of veal thro' the respect he has for calves' skin, and admires the wonderful works of the bee more for the wax than the honey. * * * * Catch him in whatever company soever, you will always hear him stating of cases, or telling what notice my Lord Chancellor took of him when he beg'd leave to supply the deficiency of his council. He always talkes with as great assurance as if he understood what he pretends to know, and always wears a band, in which lies his gravity and wisdom. He concerns himself with no justice but the justice of a cause, and for making an unconscionable bill he outdoes a taylor. * * * He is very understanding in the business of the Old Bailey, and knows as well how to fee a juryman as he does a barrister. He has a rare knack of putting in *Broom-stick Bail.* * * * * * * His study is abroad, his learning all experience, and his library in his pocket, which is always stuffed with as many papers as poet *Bays* in the *Rehearsal.* * * * He's also a

great newsmonger, and all public reports must occur to his knowledge, for his businesse lies most in a coffee-house, and the greatest of his diversion is in reading the newspapers. He is commonly a great smoker, and will walk half-a-mile to a tobacconist's where he thinks he may have six corns more than ordinary for his penny. Meet him wheresoever in term time and ask him '*Whither go you?*' and his answer shall be, '*To Westminster.*' And, indeed, you may find him in the Hall much oftener than he that has ten times the businesse there; for he is one of those that love to hear how other people's matters go, tho' it does not at all concern him."

For two or three generations after the Revolution of '88, the inferior branch of the law seems to have sunk in public estimation, whilst the superior made a more than corresponding rise in social opinion. In no small degree the bar contributed to the general dislike of attorneys. Anxious to gain credit for qualities in which the inferior practitioners were, as a class, notoriously deficient, the Inns-of-Court-men were frequently importunate in entreating the world not to confound them with lawyers of a lower grade. Holding themselves aloof from attorneys—as persons of lower rank, intelligence, and morality—they aggravated a hostile sentiment which they ought to have done their best to render less violent. Instead of defending their humble brethren against charges which, notwithstanding their truth in individual cases, were scandalously unjust when they were directed at an entire class, the barristers too generally admitted with an affectation of regret the fairness of the accusations. Thus encouraged it is no matter for wonder that people of fashion, adopting a tone which accorded with the prejudices of the ignorant and vulgar, habitually spoke of attorneys as enemies of human kind. "He had," said Horace Walpole of Sir John Willes, "great quickness of wit, and a merit that would atone for many foibles—his severity to, and discouragement of, that pest of society, attorneys. Hence his court was deserted by them, and all the business they could transport carried into Chancery, where Yorke's filial piety would not refuse an asylum to his father's profession." In thus stigmatizing a numerous body of educated men, and sneering at the parentage of Lord Hardwicke,

whose father was an attorney, and not, as Lord Mansfield gravely asserted, a peasant, Horace Walpole gave pungent expression to feelings that were universal in the good society of his long time.

Attorneys laboured under this undeserved obloquy throughout the last century; and to Lord Kenyon's dishonour it must be recorded that, although he had received his chief legal education in an attorney's office, he seized every opportunity to keep alive the public dislike of the inferior lawyers, who, by-the-way, just before the rise of Special Pleaders, and at the time when the bar spoke of them with liveliest disdain, were the usual and most efficient instructors of Inns-of-Court students.

It should also be borne in mind that throughout this period of extreme unpopularity, the inferior branch steadily gained influence within the ranks of the profession, and continued to draw within their lines of special practice divers kinds of legal business that had lain beyond their peculiar province in previous generations. "It is a vulgar observation," says Roger North, in the 'Discourse,' "that the attornies get ground of the long-robe, as it is called; the reason of which is, the gown has derelicted the practice of forms, so that all is now left to them; and such as profess only to afford a little discourse and take money, shall not be applied to, but for necessity, when their advice is wanted; and it is not one business of a thousand that comes to them; the former part is nearer the client than the counsel. I have heard Serjeant Maynard say he has several times gone the Western Circuit on foot, and that no Attorney made breviate of more than the pleadings, but that the counsel themselves perused and noted the evidences; if deeds, by perusing them in his chamber, if witnesses, by examining them there also before the trial, and so were never deceived in the expected evidence, as now the contrary happens, the evidence seldom or never comes up to the brief, and counsel are forced to ask which is the best witness. But the abatement of such industry and exactness, with a laziness also, or rather superciliousness, whereby the practice of law forms is slighted by counsel, the business, of course, falls into the handes of attornies." Long after these words were penned, the attorneys continued to encroach upon the ancient

liberties of the long robe, and gain a vexatious and firm dominion over the ordinary herd of practising barristers,—just as the London apothecaries at the same period were growing in prosperity at the expense, and to the keen annoyance, of the London physicians. Whilst the mutual jealousies and hatred of the Apothecaries' Hall and Physicians' College broke out in satirical literature, of which Garth's 'Dispensary' is the most creditable specimen, and in scandalous litigation; the ill-feeling between the bar and the attorneys was expressed in the contempt with which lawyers of the higher grades almost invariably delighted to speak of the inferior branch of their profession.

Of the many piquant stories about the chicanery and extortionate practices of attorneys, with which the jest-books of the last century are crammed, few are more humorous than the variously-told anecdote, for which the *London Chronicle*, Jan. 11, 12, 1781, gives the following statement of facts:—"An attorney in Dublin, having dined by an invitation with his client several days, pending a suit, charged 6*s*. 8*d*. for each attendance, which was allowed by the Master on taxing costs. In return for this, the client furnished the master-attorney with a bill for his eating and drinking, which the attorney refusing to pay, the client brought his action and recovered the amount of his charge. But he did not exult in his victory; for in a few days after the attorney lodged an information against him before the Commissioners of Excise, for retailing wine without a licence; and not being able to controvert the fact, to avoid an increase of costs he submitted, by the advice of counsel, to pay the penalty, a great part of which went to the attorney as informer." This account of an improbable but laughable story gave rise to the following song, recently communicated to *Notes and Queries* by a correspondent:—

"A lawyer quite famous for making a bill,
And who in good living delighted,
To dinner one day with a hearty good-will
Was by a rich client invited.
But he charged six-and-eightpence for going to dine,
Which the client he paid, tho' no ninny,
And in turn charged the lawyer for dinner and wine,
One a crown, and the other a guinea.
But gossips, you know, have a saying in store,
He who matches a lawyer has only one more.

"The lawyer he paid it and took a receipt,
While the client stared at him with wonder,
With the produce he gave a magnificent treat,
But the lawyer soon made him knock under.
That his client sold wine, information he laid,
Without licence, and spite of his storming,
The client a good thumping penalty paid,
And the lawyer got half for informing.
But gossips, you know, have a saying in store,
He who matches a lawyer has only one more."

To escape from the obloquy which social prejudices and professional rivalry had cast upon them, attorneys of a past generation very generally assumed the less odious title of solicitor, just as apothecaries of the same date sought to place themselves on a better footing with public opinion by styling themselves "surgeons," even when they did not possess the diploma of the College of Surgeons. To attorneys who thus substituted a not unpopular name for the title which was the proper designation of the inferior practitioners in his court, Lord Tenterden extended neither courtesy nor forbearance. "What are you, sir? Who are you?" he inquired of an attorney who was pushing through the crowded Court of King's Bench. "I am the plaintiff's solicitor, my lord," answered the unwary practitioner. "The plaintiff's *solicitor!*" responded the judge, with a contemptuous accent on the title. "We know nothing of solicitors here, sir. Had you been in the respectable rank of an *attorney*, I should have ordered room to be made for you."

The foolish and thoroughly vulgar prejudice against attorneys is altogether an affair of the past. Even in the dullest and dingiest coteries of faded gentility, and in the most pretentious cliques of newly-made wealth, its last whispers have utterly died out; and in any company of English gentlemen, the man would be unanimously rated as a snob who should venture to hint that an attorney, simply because he was an attorney, could not claim to associate with gentlemen as their equal. A fact in the history of one of the most important and aristocratic of our great London club-houses illustrates the change which has been wrought in public opinion with regard to this matter in the last thirty years. This club was founded something more than thirty years since for the accommodation of gentlemen of certain pursuits, not at that time so universally

popular in the world of fashion as they are at present; and at its constitution the founders passed an illiberal rule which denied the privileges of membership to gentlemen belonging to the inferior branch of the law. Let it be borne in mind that this measure was enacted by men (not by any means of the highest social rank) establishing a club that was not intended to be an aristocratic society. The club succeeded; but the members soon saw the necessity for abrogating the ridiculous restriction against attorneys and solicitors, and at the present time when the reputation of the club is brighter than ever, and when Englishmen of the highest social grades are eager to place their names on its books, it contains a greater number of men drawn from the inferior branch of the law than at any previous date of its prosperous career.

Indeed, the social distinctions which divided attorneys and the long robe have almost entirely disappeared. Each branch of the profession has its black sheep and uncouth members, whose personal failings and demerits it would be absurd to regard as the qualities of their respective orders; each branch comprises men who neither by culture, nor tone, nor aspiration merit the sadly misused epithet "gentle." But the best and truly representative members of both branches belong by birth, education, and associations to exactly the same class. Like the wearers of the long robe, our solicitors are for the most part the sons of gentlemen, and receive a liberal education before they begin to study for their profession. In boyhood they learn Greek in our public schools, and in a considerable and rapidly increasing proportion of cases they take degrees at Oxford and Cambridge before they become articled clerks. It often happens that when two brothers select the law for their vocation, the one puts his name on the books of the Temple and the other enters a solicitor's office; but it never enters the brain of either that he has taken a more or less dignified course than his brother. It is true that the one brother may rise to be a peer, whilst the other cannot do more than make money and get a seat in the House of Commons; and this difference between the eminent successes open to lawyers of the two branches secures for the bar a brighter *éclat* and wider respect than attorneys possess as a professional

fraternity, but the more brilliant *prestige* of the higher *order* exercises no appreciable influence on the estimation in which individuals are held. At a time when our most eminent judges have brothers or other near relatives in the inferior branches of the law; when solicitors occupy places of power and respect in every social grade; and when their children are received in every circle of polite life just as readily and cordially as the children of barristers, it may be very confidently asserted that attorneys have lived down the ill name and odious fame which caused Horace Walpole to call them "that pest of society."

CHAPTER LXXIV.

GRANDEUR AND DEATH.

WHEN Sir Peter Laurie, as Lord Mayor of London, entertained the judges and leaders of the bar, he exclaimed to his guests in an after-dinner oration, "See before you the examples of myself, the Chief Magistrate of the metropolis of this great empire, and the Chief Justice of England sitting at my right hand, both now in the highest offices of the state, and both *sprung from the very dregs of the people.*" Although Lord Tenterden possessed too much natural dignity and truthfulness to blush for his humble origin, he winced at hearing his excellent mother and her worthy husband, the Canterbury wigmaker, thus described as belonging to "the very dregs of the people."

Sir Peter's statement of the case, however, accords with the general view taken by most persons of the rise of Charles Abbott, and the few—the *very* few—lawyers who have raised themselves from plebeian rank to judicial eminence. Regarded as *examples* of the generosity with which low-born merit is rewarded in England, these fortunate advocates are made to sustain a theory (fruitful of disappointment in the lower grades of our great middle rank) which teaches ambitious boys to regard the bar as a profession in which men of ability and courage, unsupported by private means or connexion, have many chances of winning fame and power. A more fallacious or more disastrous theory cannot be imagined. If legal biography tells aught plainly, it asserts in plainest terms that the bar is the worst possible profession for young men who start in life without either fortune or strong friends, and are dependent solely upon their own talents and energy. Let any student review the lists of our great lawyers for the last three

hundred years, and taking the cases where he can obtain definite and minute information concerning the private circumstances of the men, he will find them for the most part gentlemen of family and estate—often of very high family and very large estate. Critical inquiry disperses nine-tenths of the romantic stories about the lowly origin and early poverty of distinguished advocates. Cases of course there are where strong men have forced their way from lowly life to the bench; but in the majority of those instances the fortunate man—either from the purse of a father, enriched by humble trade, or through the liberality of a relation, made prosperous by obscure industry—at the outset of his career enjoyed the use of money altogether beyond the command of the average country clergyman's son, who now-a-days is called to the bar without a guinea to fall back upon, and hopes that he will talk himself into practice, though he has no connexion of attorneys anxious to secure his success. A *few* cases there undoubtedly are where success has been achieved by barristers who started under singularly discouraging circumstances; but these cases are so ridiculously out of proportion to the multitude of failures, that they in no degree disprove the assertion that for a really poor man the bar is a far worse profession than medicine or divinity.

Successful barristers will either laugh at this statement as utterly ridiculous, or mildly charge it with extravagance. Fortunate men in all callings are prone to attribute their good fortune altogether to their own personal merits; and this tendency is stronger amongst rising and risen advocates than any other class of successful men. "I never yet knew the unsuccessful barrister who had not a screw loose somewhere, and whose failure was not clearly due to that loose screw," observed an eminent equity counsel to the writer of this book some months since; whereupon the conversation turned upon loose screws, and it was noticeable that want of money and want of connexion were two untoward conditions which the very amiable and deservedly prosperous lawyer in question excluded from his list of loose screws.

The story of 'The Grandeur of the Law' is the story of men of exceptional powers and noble attainments who have compelled society to recognise their strength and yield to their

power; and in extorting this acknowledgment and homage—never rendered to quite commonplace mortals—they have been almost always assisted by aids of which their historians take too little notice. Those of them who have not possessed patrimony, or the support of prosperous relations, or the advantages of strong interest, are frequently found to have won the pecuniary independence of a college fellowship, before entering the lists of Westminster Hall. Moreover, it is noticeable that the most conspicuous instances of legal celebrity coming from humble origin are men who either wanted showy parts, or neglected to use them for their professional advancement. Lord Tenterden at his best was not a tenth-rate speaker; Lord Kenyon was painfully devoid of the culture and arts by which clever youngsters, fresh from the spouting clubs of Oxford and Cambridge, hope to force their way to the woolsack; Lord Macclesfield was solid rather than brilliant; Chief Justice Ryder was but a patient, plodding lawyer; and though Philip Yorke could talk wisely and with point, he made himself Lord Hardwicke by powers very different from those which in an hour forced Erskine—that sky-rocket of the law—to the zenith of his unsubstantial success.

That same story of 'The Grandeur of the Law' comprises a large section of the brilliantly-blazoned story of the peerage. Not confining his attention to peerages won by actual lawyers, but taking notice of peerages won by persons whose families were first made noteworthy by great lawyers, Mr. Foss's edition of 'The Grandeur of the Law; or, the Legal Peers of England,' claims for the glorification of the law three dukedoms, seven marquisates, thirty-two earldoms, one viscounty, and thirty-five baronies, held by "peers who, or whose ancestors, have filled the judicial seat in England;" and five more baronies held by "peers who, or whose ancestors, have not filled the judicial seat in England." The last peer mentioned in Mr. Foss's list is the late Lord Campbell, since whose elevation to the hereditary nobility many honourable additions have been made to the roll of legal peers—Lords St. Leonards, Chelmsford, Westbury, Romilly being amongst the number.

In that long romance whose title is 'The Grandeur of the

Law'—a romance that includes all the Fathers of Westminster Hall, as well as those few of them who hid their heads under coronets—what strange narratives may be found of balked ambition, broken pride, sudden overthrow, and gloomy defeat! Strange stories of the deaths of lawyers are not less tragic than strange stories of the deaths of kings. In what dismally hideous ways have they been compelled to surrender their offices by the Mighty Tyrant of all men! Some have been struck by the headsman's axe, some have been killed by ferocious mobs, some have expired in dungeons, some have wasted the last days of existence in the bitter dreariness of exile.

Not less ghastly than undeserved was the violent death of that venerable judge, to whom the ducal house of Devonshire traces its origin, Sir John de Cavendish—the grey-headed Chief Justice who was murdered in the Market Place of Bury St. Edmunds by Jack Straw's frantic insurgents, after he had endured the grim buffoonery of a mock trial. But honourable and to be desired appears Sir John's departure from life when it is compared with the death of his successor—the false judge of whom Froissart (in English dress) says, "So Sir Robert Tresilian was delivered to the hangman, and so led out of Westminster, and there beheaded, and after hanged on a gibbet." But though history allows us few doubts concerning Tresilian's baseness, the reader of the repulsive story is apt to feel that an old age of ignominious neglect and universal abhorrence would have more appropriately closed his career than this ending wrought by steel and rope. Had the iniquitous and hateful Scroggs died under the hands of executioners his memory would not be more useful as a warning to bad men. The fever which killed Chief Justice Wright by sparing his body one last and richly-merited indignity has not lessened repugnance for the man. Had Jeffreys been hanged like a dog, his countrymen would not have been more stirred by the memory of his misdeeds, than they were when gossips and scribblers made it a matter of doubt whether he had been removed by poison, or had drunk himself into hell, or had spent the last hour of his wolfish existence eating his own flesh, or had sunk under the exquisite tortures of a conscience which had been

refreshed and quickened by the Avenging Angel, so that the miserable man might enter eternity seeing all his unutterable wickedness. And so it seems that Tresilian's story would have been as impressive and salutary had human justice, instead of hacking and hanging his body, left him in poverty and scorn to wait the sure paces of the Judge of all mankind.

Amongst those most dismal deaths, where great lawyers have terminated their lives by their own hands, one of the most memorable is the suicide of Sir James Hales, C.P., whose courageous adherence to Mary was ill repaid by the persecution of her chancellor Gardyner. Broken in mind by the humiliations of imprisonment and the brutality of his last gaoler, the unfortunate man, on regaining his liberty, designedly drowned himself. The consequences of this act were disastrous to others beside himself. He owned an estate as joint-tenant with his wife; and after a coroner's jury had declared him guilty of *felo de se*, a claim was made to the estate by the crown, as being forfeited through the dead man's felony. The argument by which her counsel vainly endeavoured to preserve the estate to Lady Hales raised the question whether,—"If a man kills himself, the crime of suicide is to be considered as complete in his lifetime or not?"

Something more than a century before Justice Hales's death, a not less memorable suicide was perpetrated by Chief Justice Hankford, who, wishing to throw away his life and preserve his estate to his family, ordered his park-keeper to shoot every person who should be seen in the park after dark, and on being called upon to stand should not obey the command. The order—for which some recent acts of deer-stealers furnished a plausible pretext—being thus given, Sir William Hankford crossed his keeper's path during a dark night, and on being ordered to stand moved away. Acting upon the directions given him, the servant fired at the retreating figure—and the Chief Justice fell dead.

With appalling abruptness has death often removed eminent lawyers in the fulness of their earthly success, and when the hope of prolonged existence has been strong within them. In our own quite recent times three English judges, within the short period of ten years, received the last awful touch of the

messenger of Fate as they sate on the justice seat. On March 13, 1854, Thomas Noon Talfourd fell asleep in the Stafford court-house whilst he was addressing the country gentlemen who composed the grand jury, and while he was urging them to feel *with* and think *for* the poor. In March, 1860, Baron Watson had scarcely uttered the last words of a charge to the grand jury when he was struck by apoplexy in the Welshpool court-house, and soon afterwards passed away. Sir William Wightman, Justice of the Queen's Bench, died under a similar seizure at York, on December 10, 1863, whilst he was making an official tour of the Northern Circuit. As each of these good men was committed to the earth, the public voice uttered a cry of sorrow, and applied to the dead the exact reverse of that harsh judgment which George III. is reported, on rather unsatisfactory evidence, to have passed on Alexander Wedderburn, when he ascertained that his late guest, the Earl of Rosslyn, had died unexpectedly on the New Year's Day of 1805.*

"My son," said the gentle John Eardley Wilmot, shortly after his appointment to the chiefship of the Common Pleas, to one of his children, "I will tell you a secret worth knowing and remembering: the elevation I have met with in life, particularly this last instance of it, has not been owing to any superior merit and abilities, but to my humility, to my not having set myself up above others, and to an uniform endeavour to pass through life void of offence to God and man." Unlike this Chief Justice who repeatedly declined the dignity of the woolsack, and was one of the very few men who can be said to have had greatness thrust upon them, his predecessor, Sir John Willes, was an up-looking and pushing man, bent on getting the greatest possible amount of the good things of life, thoroughly convinced that he was naturally fitted for high place, and as thoroughly resolved to make men recognise his merits. Born of a gentle and most respectable Staffordshire

* In James II.'s reign a Chief Justice of the Common Pleas died with impressive suddenness. Narcissus Luttrell says in his diary, Feb. 6, 1686-7—"The 6th, the Lord Chief Justice of the Common Pleas died suddenly of an apoplexy at Lincoln's Inn chapel, as he was receiving the sacrament there." The Chief Justice whose passage into eternity is thus described was Sir Henry Bedingfield—a Suffolk worthy.

family, Sir John contrived to render his honest extraction ridiculous by incessantly bragging about his pedigree, and maintaining that his illustrious progenitors derived their surname from Vellus or Villus. In his periods of wildest folly concerning the antiquity of his descent, he would maintain that one of his remote ancestors assisted the Argonauts to carry off the Golden Fleece. Of course this vanity was greatly exaggerated by his enemies, and it became the source of many ludicrous fictions, of which not the least amusing was a rumour that, in anticipation of his advancement to the peerage, he had selected the title of Lord Colchos, and that he meant to add a "fleece *or*" to the devices of his family shield, assume for his crest a picture of the Argo Galley, and take two Argonauts for supporters. Hungry for the woolsack, and longing for a peerage, he was within a pin's point of the achievement of his long-cherished ambition, when his hopes met a disappointment so humiliating that it certainly shortened his days. Having received an offer of the seals at a crisis when he flattered himself he could make his own terms, he declined to accept office unless a peerage was conferred upon him. Displeased with the haughty tone and exacting reply of the Chief Justice, the minister gave the *Clavis Regni* to Sir Robert Henley, who—with a malicious desire to enjoy Willes's annoyance, and very likely acting on Pitt's suggestion—went in person to Chief Justice Willes to tell him the news. Full of his own grievances and little suspecting his visitor's object, Willes described his action towards the ministry, and concluded by asking: "Would any man of spirit have taken the seals under like circumstances? Would you, Mr. Attorney?" With a cruel smile on his lips, Henley answered, "Yes; I should have accepted them, Sir John; and what's more I have accepted them. You are talking with the Lord Keeper." That speech gave Willes his death-blow, although its effect was not consummated until the wretched man had seen Henley advanced to the peerage, and had for years endured the keenest pangs of mortified vanity.

Another eminent lawyer who *just* missed the honour of hereditary nobility was Chief Justice Ryder, who, after many vicissitudes of hope and disappointment, was actually invited

to accept a peerage, when Death bore him away before his hand touched the proffered coronet. On May 24, 1756, the king signed a warrant ordering the Attorney General to draw out a patent of peerage for "Lord Ryder, Baron Ryder, of Harrowby in the county of Lincoln;" and it was arranged that the Chief Justice should attend court and kiss hands on the following day. Ere the hour came for the new peer's presence at St. James's, he was dead; struck down by sudden illness in his sixty-sixth year, when he seemed to be enjoying robust health. To the shame of those in power, it must be added that the patent ordered for the dead lawyer was not transferred to his son. Twenty years later, however, that son, by his own merit and services, forced his way into the peerage, and has been succeeded by peers worthy of their ancestors.

But of all the grim tales of death to be found in the pages of legal biography none is more dramatic or more appalling than the story of Charles Yorke's extinction. The facts of this tragedy are known to every reader; for, occupying in legal annals ground similar to that held in literary biography by the conflicting accounts of L. E. L.'s death, it has long been and will long remain a field for discussion and conjecture.

The event occurred in the lawyer's forty-eighth year, at the crisis in public affairs when Lord Camden's rupture with an administration of whose policy he had long disapproved compelled the king to select a new Chancellor. At this time Charles Yorke enjoyed the confidence of the Whig leaders; and though rumour had with an appearance of justice questioned his fidelity to their cause, no one beyond a circle of select politicians deemed him capable of deserting a party to which he was bound by professions of principle, by loyalty to his closest personal friends, and by affection to his brother—at a time when that party entertained reasonable expectations of a speedy entrance upon office. The temptation, however, came; and, placing his personal advancement before every other consideration, he broke faith with party, friends, and kindred. Many apologists have attempted to palliate his dishonour; but all their specious arguments, aided by the pathetic circumstances of his death, leave it apparent that Charles

Yorke's conduct is one of the most infamous cases of ratting to be found in parliamentary annals. One memoir reminds us how earnestly he was entreated by George III. to accept office, and urges that under such pressure a loyal subject is bound to oblige his sovereign at any cost. "My sleep has been disturbed by your declining," said the sovereign, in that secret interview which overcame the lawyer's irresolute virtue. "Do you mean to declare yourself unfit for it? If you will not comply, it must make an eternal breach betwixt us. Rescue me from the degrading thraldom to which I am reduced." Thus with alternate entreaty and menace the king stunned his subject's conscience; and ere he retired the politician had repudiated his principles and earned the title of Lord Chancellor. Another memoir is sure that the king would not have succeeded in the contest, had he not been aided by the solicitations of Charles Yorke's young and lovely wife, who implored her husband to barter his honour for a peerage that should devolve on her son. But this victim to loyalty and marital affection was of a frigid, hard, unyielding nature. Never was man more qualified to resist the imperious supplications of a sovereign and the passionate tears of a woman. The strongest force of his temptation came from another source. That the temptation was great no one can question; for men of Charles Yorke's culture, reputation, rank, are not brought by ordinary temptations to commit acts of despicable meanness.

On January 17, 1770, Charles Yorke took possession of the Great Seal; and on the same day the king signed a warrant for the new Chancellor's patent of nobility. But no sooner had he received a part of the price of treason, than conscience, honour, shame recovered their power. The scornful indignation with which his brother, Lord Hardwicke, and Lord Rockingham, received his confession of perfidy gave him a foretaste of the contempt which he had earned. But ere the world of fashion and the world of politics had consented to believe the story of his stupendous infamy, they were again shocked by an announcement that he was dead. On the night of that same seventeenth day of January he was attacked with sharp illness; at five o'clock P.M. of the following Saturday (20th Jan.) he was a corpse. On the table of the room in which this

three days' Lord Chancellor died lay the Great Seal, and the unsealed patent of his nobility; and as he drew near his end in the presence of his brother and certain other persons, it is said that a bystander, addressing Lord Hardwicke, observed, "What hinders the Great Seal being put to this patent whilst his lordship yet lives?" "I forbid it," answered the elder brother, promptly. "Never shall it be said of one of our family that he obtained a peerage under the least suspicion of dishonourable practice." On the evening of his death the Duke of Grafton by appointment called on the Lord Chancellor; and though the Chancellor was then lying dead in his chamber, his grace was permitted to leave the house without having learnt the fact. "Being shown into his library below," says the duke, in his diary, "I waited a longer time than I supposed Mr. Yorke would have kept me without some extraordinary cause. After about half-an-hour waiting, Dr. Watson, his physician, came into the room; he appeared somewhat confused, sat himself down for a few moments, letting me know that Mr. Yorke was much indisposed with an attack of colic. Dr. Watson soon retired, and I was ruminating on the untowardness of the circumstance, never suspecting the fatal event that had occurred, nor the still more lamentable cause ascribed for it by the world, and, as I fear, upon too just ground. I rung the bell, and acquainted one of the servants that Mr. Yorke was probably too ill to see me, and that I should postpone the business on which I came to a more favourable opportunity." How came Dr. Watson to tell the minister that his patient was suffering from an attack of colic, when the Chancellor was dead, and had been dead some four or five hours? What was the physician's motive for the grave misstatement?

However opinion may be divided as to the cause of Charles Yorke's death, there is no doubt that the prevailing opinion of high society soon after its occurrence assigned the event to self-murder, and that various contemporary witnesses, whose judgments were not formed from mere rumour, believed the Chancellor to have perished by his own hand. For a few hours the town was inclined to accept a statement put forth by the Yorke connexion, that the death was due to natural

causes—to violent sickness (consequent on dyspepsia and imprudent use of strong spirit) which had caused the rupture of a blood-vessel. Physicians and surgeons were the first to smile at this story; but it so far imposed on Horace Walpole, that, writing to Sir H. Mann on the Monday after the fatal Saturday, he observed—"The conflict occasioned in his mind by these struggles working in a complexion that boiled over with blood, threw him into a high fever on Wednesday night, and a vomiting ensuing, on Thursday he burst a bloodvessel, and no art could save him." But on further inquiry, Horace Walpole altogether discarded this version of the story, and attributed the death to self-murder. "Certain it is," says the author of 'Memoirs of the Reign of George III.,' "that he expired on the Saturday between four and six in the evening. His servants in the first confusion had dropped too much to leave it in the family's power to stifle the truth; and though they endeavoured to colour over the catastrophe by declaring the accident natural, the want of evidence and of the testimony of surgeons to colour the tale given out, and which they never took any public means of authenticating, convinced everybody that he had fallen by his own hand—whether on his sword, or by a razor, was uncertain."

The Duke of Grafton, as one of the chief agents in breaking down the lawyer's honest resolutions, would certainly have preferred to attribute the death to natural causes; but his grace was thoroughly convinced that the political intrigue carried on under his direction, had resulted in a case of suicide. "Mr. Yorke," wrote the minister, in his 'Journal,' "I believe, was a religious man. It is rare to hear of such a person being guilty of an action so highly criminal. It must, therefore, have been in him a degree of passionate frenzy bearing down every atom of his reason. You will not wonder that I cannot think on the subject without horror still."

Contemporary writers, such as Sir Nathaniel Wraxall, Jeremiah Markland, and Belsham, were amongst those of whom Horace Walpole thought when he said the evidence had "convinced everybody that he [Charles Yorke] had fallen by his own hand."

The action of Charles Yorke's family was certainly most

injudicious, if he died from natural causes. It may be fairly presumed that Dr. Watson was complying with the request of the dead man's relatives when he assured the Duke of Grafton that the Chancellor was still suffering from colic—though he had yielded his last breath several hours before. Lord Hardwicke and his brother's personal connexions were well aware that the death was most mysterious to the outside world, and that rumour attributed it to suicide—and yet they took none of those simple measures by which, in case the deceased man was innocent of the act imputed to him, they could have cleared his honour of one stain. The corpse was not subjected to any *post-mortem* examination in the presence of competent witnesses; there was no coroner's inquest. Why was the procedure usual in such cases so far departed from? But whilst the family neglected to invite the inquiry which persons under like circumstances, and with no motive for concealment of facts, usually institute, they made just that parade of openness which men frequently make in the belief that an ugly truth can be veiled by an assumption of frankness. When the Chancellor was "laid out," visitors were admitted to his bedroom. Craddock, on the authority of Charles Yorke's connexion-by-marriage, Mr. Sheldon, says, "After his death he was laid out, and the neck exposed to several persons, purposely permitted to view the corpse;" and elsewhere the same author remarks, "The friend from whom I received the account assured me that he was present when the corpse was left openly in the chamber, that the attendants might gratify their curiosity, and see that his death could not be truly attributed to the direct means which had been so publicly and confidently asserted." By this writer's testimony, taken as reliable, two important facts are established. 1. That no wound was inflicted on the dead man's *throat*. 2. That his survivors, whilst they shunned the legal and customary inspection, invited the more manageable but certainly not less painful scrutiny of prying servants and other incompetent observers. Since the Yorkes voluntarily endured the pain of this irregular, humiliating, and quite unsatisfactory investigation, it was clearly no sentiment of respect for death which made them anxious to preserve the silent chamber from the irruption of a coroner's

jury and scientific observers. Certain members of the Yorke family have recently contradicted the statement that the second Lord Chancellor of their house perished by his own hand; but their contradiction in no way affects the balance of testimony previously before the world. It is noteworthy that though the second Lord Hardwicke, in his 'Private Memorial' concerning his brother's death (written something less than a year after the fatal occurrence, and when the belief in the imputed suicide was universal), enters minutely into the circumstances of his last intercourse with his brother, he neither states any facts that disprove the painful accusation, nor ventures to express any opinion as to the nature of the death. It is not credible that had Lord Hardwicke believed his brother's death due to natural causes, he would have omitted to state that belief in this important paper.

By conferring on Charles Yorke's son the peerage, which, through non-completion of the patent, had fallen from the Chancellor's dying hand, George III. would have done much to remove a dark cloud from the memory of a man who certainly died under circumstances that gave his offspring a special title to the royal favour. The king, however, abstained from ennobling the younger line of the house of Yorke; and the patent for the Barony of Morden became waste paper. "After the menacing language," says Lord Hardwicke, in the 'Private Memorial,' "used in the closet to compel Mr. Yorke's acceptance, and the loss w^{ch} the king sustained by his death at that critical juncture, the most unprejudiced and dispassionate were surprised at the *little* or rather *no* notice that was taken of his family; the not making an offer to complete the peerage was neither palliated nor justified in their opinion. It was due to the *manes* of the departed, and from every motive of humanity and decorum. Lord Hillsborough told a friend of mine indeed that the K. had, soon after his death, spoken of him with tears in his eyes, and enquired after his family; but it would surely not have misbecome his M^{ty}, conscious of the *whole* of his behaviour to an able, faithful, and despairing subject, to have expressed that concern in a more particular way." Perhaps the sovereign's conduct followed from the view which he took of the Chancellor's death.

As to the cause of that death the writer of these pages offers no personal opinion.

Having briefly noticed the chief evidence concerning the matter he leaves the question with his readers, addressing to them Lord Tenterden's dying words, "And now, gentlemen of the jury, you will consider your verdict."

CHAPTER LXXV.

LEGAL HAUNTS.

THE educated explorer of old cities has frequent occasion to lament his want of a complete chain of historic associations with the picturesque buildings which he surveys, and the antique quarters through which he wanders; and notwithstanding the zeal and success with which antiquarians have laboured to tell the story of every nook and corner of London, this want is felt as often and keenly in the English capital as in cities which have received much less attention from artists and students. In Aldgate and Bishopsgate Street, and the purlieus of the chief thoroughfares of "*old* London," the searcher after historic relics comes upon the remains of colleges, palaces, hostelries, with each of which he has some few historic associations, but of no one of which he is able to trace the story step by step from the past to the present. The monastery has become a hiding-place for thieves; the palace is a block of cheap lodging-houses; the hostelry in which gallants and wits contributed to the life of feudal London, is a merchant's warehouse—but of the degrees by which the change in each case has been wrought tradition says but little, and history almost nothing.

Of the Inns of Court a chief, if not the greatest, charm is the perfect continuity of their historic associations through a long course of time. This charm they possess in common with all old colleges; but in their case it is stronger and more conspicuous than in most collegiate buildings—(those even of Oxford and Cambridge being included in the survey)—by reason of the very great number of remarkable men who have dwelt within their bounds, whilst exercising direct and personal influence on the action of the nation. From the heart of the sixteenth century to the middle of the eighteenth the

Four Inns contained so much of what was strongest in the intellectual, and brightest in the social life of England, that it is impossible for an educated person to pace their courts and terraces in meditative mood, and be in no way affected by the memories of the men who have walked, and of the scenes which have been enacted, on the same ground in past time.

To those who are familiar with England's life from the days of Elizabeth, the open space between Verulam Buildings and Raymond Buildings, Gray's Inn, is something more than a deserted tree-garden, serviceable as an exercise-ground for a few children and nursemaids, one or two corps of volunteer riflemen, and a score or more barristers who like to smoke in the open air. Its umbrageous avenue and raised walk recall the labours of Mr. Francis Bacon and Mr. Wilbraham, who laid out the ground and the money appropriated by the benchers to its adornment, with equal economy and taste; and the sight of the trees in Mecklenburgh Square, as beheld from the elevated ridge at the northern extremity of the college-garden brings to mind Bacon's terrace and its summer-house, which commanded a view of Highgate and Hampstead. It is the same garden in which the beauties and gallants of Charles II.'s London used to ogle each other and flirt every Sunday afternoon—pretty Fanny Butler being in her brief day the *belle* of the ground, and rousing the admiration of Samuel Pepys, who was wont to express his delight at the lady's beauty with a fervid candour that was by no means agreeable to the fair young wife upon his arm.* Some of the very same trees which have cano-

* Under the merry monarch there was abundance of flirtation in Gray's Inn Gardens on each of the six secular days; but Sunday was the day of grand promenade,—the open-air assemblies in summer-time taking place immediately after afternoon service. On June 17, 1660, young Sam Pepys wrote in his diary:—"(Lord's Day.) Again to Mr. Mossum's; a good sermon. This day the organs did begin to play at White Hall before the king. After dinner to Mr. Mossum's again, and so in the garden, and heard Chippel's father preach, that was page to the Protector. By the window that I stood at sat Mrs. Butler the great beauty. *Mr. Edward and I into Gray's Inn walks, and saw many beauties.*" A year later (June 23, 1661) the young Justice of the Peace—still "mightily pleased" with his honourable position, "though wholly ignorant in the duties of a Justice of the Peace"—recorded another visit to Gray's Inn on a Sunday afternoon. "After dinner to church all of us, and had a very good sermon of a stranger, and so I and the young company to walk first to Graye's Inn walks, where great store of gallants, but above all the

pied Queen Victoria's "Devil's Own," threw shade on the young men who loitered throughout hot June days in the gardens with Butler and Cleveland. On the same broad walk where law-students may still saunter whensoever they please, John Evelyn's friend, Mr. Palmer of Gray's Inn, the ingenious mechanician, often paced up and down, considering the qualities of the latest addition to his collection of "telescopes and mathematical instruments, choice pictures, and other curiosities;" or devising some new contrivance for the improvement of that marvellous clock which roused the diarist's wonder and enthusiasm; or listening to Evelyn's description of the museum of natural curiosities belonging to Mr. Charlton of the Middle Temple, which collection eventually passed by purchase into the possession of Sir Hans Sloane. How many similar associations has every bookish Londoner with "the walks" of Lincoln's Inn, where the ambassador from Morocco was received by the benchers on March 4, 1681–2, and where Steele liked to plan his essays, sitting one day under branches that still remain to us, on another reclining beneath one of those trees which were removed to make way for the new hall—an alteration that occasioned Sir George Rose's lines—

"The trees of yore
Are seen no more,
Unshaded now the garden lies;
May the red bricks
Which here we fix
Be lasting as our equities.

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ladies I there saw, or did ever see, Mrs. Frances Butler (Monsieur L'Impertinent's sister) is the greatest beauty." On this occasion Mrs. Pepys seems not to have accompanied her husband; but like all modish ladies of her time she was a frequenter of the Inns-of-Court pleasure-grounds. Under date June 10, 1660, Pepys says, "(Lord's Day):—At my father's found my wife, and to walk with her in Lincoln's-Inn walks." As a contrast to the nimble, bright-eyed, loquacious government-clerk may be taken the courtly, well-descended, gentle John Evelyn, already a man of middle age when Pepys married his young bride. As an official person, a man about town, and a gossiping diarist, Evelyn had points in common with Pepys; but from the crowds of gallants who thronged the *promenades* of the Inns of Courts in Charles II.'s time no two persons could be chosen, more dissimilar in appearance, manner, and tone than these two men whose private journals throw a flood of light on the social life of our ancestors.

"The olden dome*
With musty tome
Of law and litigation suits;
In *this* we look
For a better Cook
Than he who wrote the 'Institutes.'"

In the distance stands the old gateway over which Oliver Cromwell is said to have had his chambers; yonder is the block of buildings where (*temp.* Henry VI.) the few and despised Irish members of the society are believed to have had their chambers; and here we are again in the cloisters under the chapel, looking at the stone which marks the grave of Cromwell's "Mr. Secretary Thurloe." And now leaving Lincoln's Inn and the Fields hard by—where Hogarth saw many a bull baited to the intense delight of a ferocious mob, and many an unruly colt flogged by horse-breakers—let us walk down Chancery Lane—away from the Rolls Court and Serjeants' Inn—cross Fleet Street, and enter the Temple by the Inner Temple Gate. The view which can now be taken of the exterior of the church is an enjoyment for which the visitor must render thanks to existing benchers who, with equal liberality and taste, have pulled down buildings which, until the other day, concealed many of the outward beauties of the edifice. In thus sacrificing income for artistic effect, these truly honourable benchers followed the example of their immediate predecessors, who swept away the mean shops of wigmakers, tailors, and cobblers, that disfigured the walls of the church even so late as the present century. Glancing right and left into darksome and silent courts, or up alleys that lead to the courts, we pass by the Hall and Parliament Chamber, where fire has repeatedly committed ravages.

* It was in this olden dome—now the centre of those Courts of Chancery, about which satirists say so much and know so little—that *temp.* Hen. VIII., an unruly student fixed up a horse's head in the place previously occupied by an image of St. John; that Charles II. feasted; that William Murray, on becoming Chief Justice of the King's Bench, entertained the members of his old Honourable Society with lordly magnificence; that Sir James Mackintosh lectured on "The Law of Nature and Nations;" and that Lord Eldon, when the Court of Chancery in Westminster Hall was undergoing repair, sate in judicial state, pretending to hear and take notes of the arguments of counsel whilst he was in reality writing letters to ladies of fashion.

In the Inns of Court—which comprise a large number of separate establishments packed into small spaces, and necessarily contain an immense accumulation of valuable parchments and papers—fire is perhaps more fearfully dangerous to life and destructive of property than in any other sort of London habitations. And the occasions when the inns have suffered from conflagration are frequent. The Great Fire of 1666 was stayed in its westward course at the Temple, but it was not suppressed until the flames had consumed many sets of chambers, had devoured the title-deeds of a vast number of valuable estates, and had almost licked the windows of the Temple Church. Clarendon has recorded, that on the occasion of this stupendous calamity, which occurred when a large proportion of the Templars were out of town, legal caution had so hurtful an influence on many of the lawyers in residence, that they declined to break open the chambers and rescue the property of absent members of their society, through fear of prosecution for burglary. Another great fire some years later (Jan. 1678-9) destroyed the old cloisters and part of the old Hall of the Inner Temple.* Far more destructive to the lawyers than the great Fire of London, this later conflagration destroyed the greater part of the residential buildings of the "old Temple." Breaking out at midnight, and lasting till noon of next day, it devoured in the Middle Temple the whole of Pump Court (in which locality it originated), Elm Tree Court, Vine Court, and part of Brick Court—in the Inner Temple, the cloisters, the greater part of Hare Court, and part of the hall. The night was bitterly cold, and the Templars aroused from their beds to preserve life and property could not get an

* Of this disastrous fire Narcissus Luttrell, under date January 26, 1678-9, says: "At about 11 at night, broke out a fire in the chamber of one Mr. Thornbury, in Pump Court, in the Middle Temple. It burnt very furiously and consumed in the Middle Temple, Pump Court, Elm Tree Court, Vine Court, and part of Brick Court. It burnt down also, in the Inner Temple, the cloysters and the greatest part of Hare Court; the library was blown up. The Thames being frozen, there was great scarcity of water; it being so bitter a frost the water hung in icicles at the e'ves of the houses. The engines plaid away many barrels of beer to stop the fire; but the chief way of stopping the fire was by blowing up houses; in doeing which many were hurt, and particularly the Earl of Feversham, whose skull was almost broken; but he is now in some hopes of recovery. This fire lasted till the next day at noon; and 'tis suspected was begun by treachery."

adequate supply of water from the Thames, which the unusual severity of the season had frozen. In this difficulty they actually brought barrels of ale from the Temple butteries, and fed the engines with the malt liquor. Of course this supply of fluid was soon exhausted; and the fire spreading eastward, the lawyers fought it by blowing up the buildings that were in immediate danger. Gunpowder was more effectual than beer; but the explosions were sadly destructive to human life. Amongst the buildings thus demolished was the library of the Inner Temple. Naturally, but with no apparent good reason, the sufferers by the fire attributed it to treachery on the part of persons unknown—just as the citizens attributed the fire of '66 to the papists. It is more probable that the calamity was caused by some such accident as that which occasioned the fire that, during John Campbell's Attorney-Generalship, destroyed a large amount of valuable property, and had its origin in the clumsiness of a barrister, who upset upon his fire a vessel full of spirit.* The fires of the Inns of Court usually occur in the dead of night. It was during the hours of silence and darkness that Charles Yorke (July 5, 1752) was burnt out of his chambers, and compelled to fly—"with nothing on but his shirt and breeches"—for safety to the chambers of his friend Clarke, who lived on the opposite side of the square. In this fire, memorable in the annals of Lincoln's Inn, Lord Somers's State Papers, in thirty folio volumes were destroyed, together with the rest of Charles Yorke's library and MSS.

And now that the explorer has inspected the buildings raised since the fire of 1678-9, let him take refreshment from the sight of the quiet river—which the new Thames Way will soon shut out from the observation of loiterers in the Temple Gardens—let him cross the Middle Temple Lane, smiling as he goes at

* Of this fire Lord Campbell observes: "When I was Attorney General, my chambers in Paper Buildings, Temple, were burnt to the ground by fire in the night-time, and all my books and MSS., with some valuable official papers, were consumed. Above all I had to lament a collection of letters written to me by my dear father, from the time of my going to college till his death in 1824. All lamented this calamity except the claimant of a peerage, some of whose documents (suspected to be forged) he hoped were destroyed; but, fortunately, they had been removed into safe custody a few days before, and the claim was dropped."

the ludicrous discomfiture of worthy old Gustavus Brander* who, sitting in his magnificent chariot, some hundred years since, was carried at full gallop right down the lane by a pair of run-away horses, that did not stop until the learned counsellor and all his grandeur were in the river; and then having surveyed the grounds hallowed by the words of some of England's greatest writers, let him look at the pert fountain, which has replaced the waggoner's whip† of Charles Dickens's story, and leave the Temple by the gate which opens upon Essex Street. There being still three hours to pass before his dinner, let him finish his morning in legal haunts with a visit to Westminster Hall. Temple Wharf is near at hand—and in another minute the steamboat will be starting for the city where English laws are manufactured. Let us then pay our pence and make the passage by water, differing from those four learned lawyers,

* Fortunately the accident occurred when the tide was low, a circumstance that accounts for the lawyer's preservation. Dying *circ.* 1786, Gustavus Brander, Esq., of the Inner Temple, "bequeathed by his will a certain sum to the clergyman of Christ Church in Hampshire, to preach a sermon annually on the 1st of August, and left donations to the poor of the parish, who should attend to commemorate the anniversary of his miraculous escape."

† Of the little fountain to whose music Ruth Pinch delighted to listen, the author of 'Jekyll: A Political Eclogue. 1788,'—one of the many writers who have illustrated the story of The Temple—speaks in the following lines:

"Jekyll, the wag of law, the scribbler's pride,
Calne to the senate sent—when Townsend died,
So Lansdowne willed,—the old hoarse rook at rest,
A jackdaw-phœnix chatters from his nest.
Statesman and lawyer now, with clashing cares,
The important youth roams thro' the Temple squares;
Yet stays his step where, with congenial play,
The well-known fountain bubbles day by day.
The little fountain!—whose restricted course,
In low, faint essays owns its shallow source.
There, to the tinkling jet he tuned his tongue,
While Lansdowne's fame and Lansdowne's fall he sung.

* * * * *

While Jekyll thus, the rich exhaustless store
Of Lansdowne's rhetoric ponders o'er and o'er,
And rapt in happier dreams of future days
His patron's triumphs in his own surveys,
Admiring barristers in crowds resort
From Fig-tree—Brick—Hare—Pump—and Garden Court."

who used to share daily throughout the term one hackney-coach—thereby giving occasion for the epigram—

> "Causidici curru felices quatuor uno
> Quoque die repetunt limina nota fori,
> Quanta sodalitium præstabit commoda! cui non
> Contigerint socii cogitur ire pedes."

At this date the ordinary visitor to Westminster Hall has but a feeble, and altogether inadequate, conception of the appearance which it presented in olden times. Of the banquets to which kings have welcomed the nobles of the land beneath its venerable roof—of the occasions when royal bounty has feasted the poor of Westminster and London within its historic walls—of the long line of coronation festivals that have been celebrated with pompous confusion beneath the span of its vast timbers—of the times when exceptional arrangements have been made within its limits for the impressive solemnities of State trials,* it is not our intention to

* The appearance of Westminster Hall at the opening of the trial of Warren Hastings has been preserved for future ages by Macaulay's pen, and the pencil of a sufficient artist; and allowance being made for change of costume, the effect of this theatric episode in the political life of George III.'s reign may be regarded as a faithful picture of several preceding ceremonials of the same kind. The following is John Evelyn's description of the interior of Westminster Hall, as it was seen during Lord Stafford's trial:—"The trial was in Westminster Hall, before the King, Lords, and Commons; just in the same manner as, forty years past, the great and wise Earl of Strafford (there being but one letter differing their names) received his trial for pretended ill-government in Ireland, in the very same place, this Lord Stafford's father being then High Steward. The place of sitting was now exalted some considerable height from the paved floor of the hall, with a stage of boards. The throne, woolpacks for the Judges, long forms for the Peers, chair for the Lord Steward, exactly ranged, as in the House of Lords. The sides on both hands scaffolded to the very roof for the members of the House of Commons. At the upper end, and on the right side of the king's state, was a box for His Majesty; and on the left, others for the great ladies, and over head a gallery for ambassadors and public ministers. At the lower end, or entrance, was a bar, and place for the prisoner, the Lieutenant of the Tower of London, the axe-bearer and guards, my Lord Stafford's two daughters, the Marchioness of Winchester being one; there was likewise a box for my lord to retire into. At the right hand, in another box, somewhat higher, stood the witnesses; at the left, the managers, in the name of the Commons of England, namely, Serjeant Maynard (the great lawyer, the same who prosecuted the cause against the Earl of Strafford forty years before, being now near eighty years of age), Sir William Jones, the late Attorney General, Sir Francis Winnington, a famous pleader, and Mr. Treby, now Recorder of London, not appearing in their gowns as lawyers, but in their cloaks and swords, as representing the Commons of England:

speak. The scenes which the intelligent stranger, making his first inspection of the Hall, is most desirous to bring before his mind, are the scenes which it presented to the eyes of our ancestors whilst the ordinary business of legal terms was transacted in its courts; and the next chapter shall be written with a view to satisfy the curiosity of such a visitor to our seats of justice.

to these were joined Mr. Hambden, Dr. Sacheverell, Mr. Poule, Colonel Titus, Sir Thomas Lee, all gentlemen of quality, and noted parliamentary men. The two first days, in which were read the commission and impeachment, were but a tedious entrance into matter of fact, at which I was but little present. But on Thursday, I was commodiously seated amongst the Commons, when the witnesses were sworn and examined."

CHAPTER LXXVI.

WESTMINSTER HALL.

IT has already been observed that for several generations the world of London fashion was greatly influenced by the movements of the lawyers; that people of quality hastened from suburb and country to be in town at the opening of term; that the amusements of the capital became more or less numerous in proportion as there were more or less barristers in the inns. Not only did the lawyers impart a powerful stimulus to gaiety and trade, but the idlers whom they attracted to the city, together with crowds of wretched suitors, found much of their daily excitement in listening to the trials and watching the life of the law-courts. In the Elizabethan and Caroline periods the gallants and roisterers divided their time between the loitering places of London and Westminster, the bustle of St. Paul's and bustle of the Hall. Both places were open to idlers of every degree, and in wet weather the wearers of velvet and fine cloth, of silk and point-lace, spent the greater part of their days in these popular resorts, where they were protected from the rain, and might gossip freely with any by-stander who, like themselves, was on the look-out for diversion. It was the same in Queen Anne's time, and almost down to the end of the last century. When Steele and Addison had inspected the beasts in the Tower, and picked up the news of merchants on 'Change and the parsons in the Chapter Coffee-house, they spent an hour amongst the loungers of Westminster. One morning the London sight-seers of Boswell's time strolled through the galleries of Bedlam, and the next they passed their time in the equally noisy courts of justice.

Instead of being an open area, enlivened by separate

knots of loungers, or by persons walking hastily in the pursuit of business, the floor of the Hall in olden time was densely crowded during term from an early hour of the morning until the courts had risen. The eastern and western walks were hung with banners; and it was whilst he endeavoured to read the devices of these martial flags that the rustic visitor often lost his purse. Country cousins were warned against banner-gazing when they passed up and down between the entrance to the Court of Exchequer and the King's Bench bar. The diarists make many allusions to these flags which were a noticeable feature of the Hall so late as the earlier years of George III. But far more remarkable than these ornaments were the shops which occupied the eastern side of the Hall, at which dealers in books, refreshments, gloves, and bar millinery gave base silver in change for clipped guineas.

When Evelyn visited the Hague in August 1641, he found the stately hall of the Prince's Court "hung round with colours and other trophies taken from the Spaniards, and the sides below furnished with shops,"—an arrangement that reminded the English tourist of King Charles's Palace of Justice.

Another circumstance that gave Westminster Hall in term-time an appearance widely different from that which it wears in the present generation, was the arrangement of the courts. The judges of the Exchequer sate in a chamber which was entered by a passage that penetrated the western wall of the Hall; but the judges of the Court of Chancery, the Court of King's Bench, and the Court of Common Pleas, instead of occupying chambers withdrawn from the Hall, sate under William II.'s roof on elevated benches that were divided from the area by wooden bars or substantial boarding. At first the counsel stood at the bars behind which the justices, thus perched up aloft in full sight of each other, had their seats;* but in course of time the bar became a fence of boards, and the

* At first these seats were by no means luxurious. The Chancellor's throne was a marble chair; the other judges sate on cushionless wood. But in course of time, the world becoming more luxurious, Chancellors were allowed to sit on sacks of wool, and Common Law judges—inimical to reform on all other matters pertaining to the law—admitted the necessity of one fundamental change in the usages of Courts of Justice.

barristers were indulged with a few benches within a narrow space, fenced from the outer crowd by a wooden frame. In the seventeenth century the side of the Hall nearest the river was occupied by tradesmen's stalls. On the opposite side the Court of Common Pleas maintained its ancient place in the north-west angle of the area; and at the top of the Hall, dividing the space under the window, that is in our day approached by flights of stone steps, were the courts of King's Bench and Chancery—the justices of the former court occupying the south-east corner of the Hall, whilst the Lord Chancellor and his masters were accommodated in the other angle of the end opposite the chief entrance.

A passage in Ned Ward's "London Spy" (1709) illustrates this ancient arrangement of the Hall. "We then marched forwards," says the Spy, "towards the Palace Yard, which we found as full of hackney coaches as Gray's Inn walks of . . . on a Sunday after sermon, standing rank and file in as much order as if they had been marshal'd by the Fleet Street Deadmonger ready for a funeral. When we had made more turnings and windings amongst the coaches than ever were known in Fair Rosamond's bower, we arrived at the Hall gate, within side of which innumerable crowds of contending mortals were swarm'd at every bar, where the black syrens of the law, with silver tongues and gilded palms, were charming the ears of judges with their rhetorical musick. We first gave our attention at the Common Pleas, where my friend and I were much delighted, sometimes with elegant speeches from the bench as well as pleasing eloquence, and powerful pleadings of the bar.

"There happen'd an old yeoman to be a witness in one cause, that had sworn very heartily and knowingly in a matter of great antiquity, so that the council on the opposite side asked him, 'How old he was?' To which he answered, at first gravely, with these words: 'I am old enough to be your father; and therefore I hope, young man, you will give that respect to my gray hairs that is due to them.' 'That,' reply'd the council, 'is no answer to my question. I desire to know how many years old you account yourself; for I am very apt to believe that you have sworn positively to some things that are beyond your knowledge.' 'I would have you

to consider, sir,' says the old gentleman, 'I am of a very great age; I am in my fourscore and seventeenth year, and yet I thank God for it, I have memory enough left still to make a knave an answer.' With that the court burst into a laughter, which dashed the lawyer out of countenance, and made him ashamed of making any further interrogatives.

"From thence we mov'd towards the upper end of the Hall, thro' such a crowd of Jerry Black-acres that we were shov'd about like a couple of owls fallen into a company of rooks and jackdaws. As we were thus squeezing along towards the Chancery bar, a couple of country fellows met and greeted one another in the following manner: 'How d'ye, neighbour?' says the one; 'is your sute ended yet?' 'No, trowly,' says the other; 'nor can anybody tell when it wool!' 'To spaik the truth, neighbour, I believe my returney's a knave!' 'How sh'd it be otherwise,' reply'd the first; 'for thou seeth there are so many of 'em here, that it's impossible they should live honestly one by another.'

"We were now got to the Chancery, where so many smooth tongues were so vigorously contending for equity, that we found by their long harangues and strenuous arguments it was not to be obtain'd with little difficulty. Whilst we were giving our attention to that engaging harmony which flow'd with such a careless fluency from their well-tuned instruments of oratory, a cause was call'd on wherein a taylor happened to be a chief witness. The council on the other side knowing his profession, took an occasion to give him this caution, viz., 'I understand, friend, that you are by trade a taylor; I would advise you to use more conscience in your depositions than you do in your bills, or else we shall none of us believe you.' 'Truly, sir,' says the taylor, 'our trade, I must confess, does lye under a great scandal; but if you and I were in a room together, and the devil should come in for a thief and a lyer, I wonder which of us would be most frightened.'

"We adjourned from thence to the Queen's Bench bar, where two pleaders, very eager in dispute, were mixing their arguments with warm reflections upon one another. A countryman happening to stand just by us, seem'd mightily pleased to hear 'em at such variance; at last, being unable to contain

himself any longer, broke out into these words, viz.: 'Well said, efaith; this I hope will make the old proverb good, that when knaves fall out, honest men will come by their right.' A little after one of the counsellors, in a heat, happen'd to say, rashly,—If what he had offered was not law, he would justify the law to a lottery! Upon which says the countryman, 'I wish heartily it was so, for then it would be put down by the late act of parliament, and I should fling away no more money at it; for I am sure it has kept me and my family as poor as Job this fifteen years.'

"From thence we walked down by the sempstresses, who were very nicely digitising and plaiting turns-overs and ruffles for the young students, and coaxing them with their amorous looks, obliging cant, and inviting gestures, to give so extravagant a price for what they buy, that they may now and then afford . . . . . We now began to take notice of the building which to me seemed as noble as 'twas ancient; and, looking upwards, could no less than greatly admire the timber roof, being finely built after the Gothick order. But that which was chiefly to be observed in it was the cleanliness thereof, it being as free from dust and cobweb as if 'twas raised but yesterday."

For every lawyer who daily visited Westminster Hall during term in the service of a client, or with a reasonable hope that he might pick up a brief, there were half-a-dozen who punctually attended the courts for pure amusement;* to flirt with

* The idle barristers of his day—ornamental barristers as they are now-a-days termed—were a class of gentlemen who contributed largely to Addison's enjoyment of life. "The body of the law," he says in Spectator No. 21, "is no less encumbered with superfluous members, that are like Virgil's army, which he tells us was so crowded, many of them had not room for their weapons. This prodigious society of men may be divided into the litigious and peaceable. Under the first are comprehended all those who are carried down in coachfuls to Westminster Hall, every morning in term-time. Martial's description of this species of lawyers is full of humour:

Iras et verba locant—

'Men that hire out their words and anger;' that are more or less passionate according as they are paid for it; and allow their client a quantity of wrath proportionable to the fee which they receive from him. I must, however, observe to the reader, that above three parts of those whom I reckon among the litigious, are such as are only quarrelsome in their hearts, and have no opportunity of showing their passions at the bar. Nevertheless, as they do not know what strifes may arise, they

milliners, to enjoy the witticisms of jocular advocates, to haggle over the price of books at the tables of the book-dealers, to gossip with old friends, and to make new acquaintances in the tap-rooms of Heaven, Hell, and Purgatory—the cant-names of three taverns that carried on a rare business in strong drinks under the very roof of the Hall. In these dram-shops—to which writers of the seventeenth and eighteenth centuries make frequent allusion—counsel and clients, attorneys and countrymen, students and pickpockets, clerks and professional witnesses tippled, quarrelled, and made jests. The professional

appear at the Hall every day, that they may show themselves in readiness to enter the lists, whenever there shall be occasion for them. The peaceable lawyers are, in the first place, many of the benchers of the several Inns of Court, who seem to be the dignitaries of the law, and are endowed with those qualifications of mind that accomplish a man for a ruler rather than a pleader. These men live peaceably in their habitations, eating once a day, and dancing once a year, for the honour of their respective societies. Another numberless branch of the peaceable lawyers are those young men, who being placed at the Inns of Court in order to study the laws of their country, frequent the play-house more than Westminster Hall, and are ever in all public places except a court of justice. I shall say nothing of those silent and busy multitudes that are employed within doors, in the drawing up of writings and conveyances; nor of those greater numbers that palliate their want of business with a pretence to such chamber practice."

One of Addison's choicest and best known creations is the Templar of the Spectator's Club, whom he introduces thus:—"The gentleman next in esteem and authority amongst us is another bachelor, who is a member of the Inner Temple; a man of great probity, wit, and understanding; but he has chosen his place of residence rather to obey the direction of an old humoursome father, than in pursuit of his own inclinations. He was placed there to study the laws of the land, and is the most learned of any of the house in those of the stage. Aristotle and Longinus are much better understood by him than Littleton or Coke. The father sends up every post questions relating to marriage-articles, leases, and tenures in the neighbourhood; all which questions he agrees with an attorney to answer and take care of in the lump. He is studying the passions themselves, when he should be inquiring into the debates among men which arise from them. He knows the argument of each of the orations of Demosthenes and Tully, but not one case in the reports of our own courts. No one ever took him for a fool; but none, except his intimate friends, know that he has a great deal of wit. This turn makes him at once both disinterested and agreeable; as few of his thoughts are drawn from business, they are most of them fit for conversation. His taste of books is a little too just for the age he lives in; he has read all, but approves of very few. His familiarity with the customs, manners, actions, and writings of the ancients, makes him a very delicate observer of what occurs to him in the present world. He is an excellent critic; and the time of the play is his hour of business; exactly at five he passes through New Inn, crosses through Russell Court, and takes a turn at Will's till the play begins: he has his shoes rubbed, and his periwig powdered at the barber's as you go into the Rose. It is for the good of the audience when he is at the play, for the actors have an ambition to please him."

witnesses were most noticeable frequenters of the Hall in the "good old times." Bankrupt traders, dissolute clerks (too idle to work, or too knavish to find any one willing to employ them regularly), quondam authors, degraded scholars, whose names had at one time figured on the books of a college, these abominable traffickers in perjury were employed by attorneys to swear to any lie, for which the support of false oaths was required. Not only did they ply their abominable trade, but, strange to say, they plied it notoriously—making no secret of their infamous business to persons initiated in the usages of the law-courts. Daily these venal liars walked Westminster Hall on the look-out for employment; a straw stuck in one of his shoes being the ensign by which a member of the fraternity advertised his readiness, in spite of the terrors of the pillory, the whipping-post, the plantations, and the gallows, to swear by the hour together for a stated payment *per* oath. Throughout many years of the eighteenth century, a wicked attorney named Wreathcock—who, after undergoing sentence of death, was transported for life in 1736—kept a number of these scoundrels in full employment; and though his exposure and removal from the country broke up "Wreathcock's Gang," the man and his lying slaves were speedily replaced by another "connexion" of perjurers.

An allusion is made to Wreathcock in the following lines:—

"When fools fall out, for ev'ry flaw,
They run horn mad to go to law;
A hedge awry, a wrong-plac'd gate
Will serve to spend a whole estate.
Your case the lawyer says is good,
And justice cannot be withstood;
By tedious process from above
From office they to office move;
Thro' pleas, demurrers, the devil and *all*,
At length they bring it to the *hall;*
The dreadful hall by Rufus rais'd,
For lofty Gothic arches prais'd.
The First of Term, the fatal day,
Doth various images convey,
First from the courts with clamorous bawl,
The *criers* their *attorneys* call;
One of the gown, discreet and wise,
By proper means his witness tries;

From *Wreathcock's* gang—not right or laws,
He assures his trembling client's cause;
This gnaws his handkerchief, whilst *that*
Gives the kind ogling nymph his hat;
Here one in love with choristers
Minds singing more than love-affairs.
A serjeant limping on behind
Shews justice lame, as well as blind.
To gain new clients some dispute,
Others protract an ancient suit;
Jargon and noise alone prevail,
While sense and reason's sure to fail;
At *Babel* thus *law terms* began,
And now at Westminster go on."

These lines are inscribed on C. Mosley's engraving of Gravelot's drawing of the interior of Westminster Hall, in which picture (an impression of the engraving is preserved in the British Museum) the courts are arranged as they were when Ned Ward visited them.

Unless the student bears in mind this arrangement of Westminster Hall, the openness of the courts, which permitted the judges to see each other and command a view of the entire hall; the ever-moving and incessant throngs of loiterers; and the freedom with which visitors were permitted to laugh and talk aloud, he misses the humour, and poignancy, and spirit of the best stories that are preserved in the annals of the law-courts. When Speaker Seymour seized Serjeant Pemberton, as the latter walked up Westminster Hall conspicuous by his coif and parti-coloured robes, the capture was made amidst a crowd of eager politicians and fashionable *quidnuncs*, who watched the strange scene with liveliest interest. When Lady Harriet Berkeley openly refused the protection of her father, after the trial of Lord Grey de Werke for her seduction, swords were drawn and blood would have been spilt had not Chief Justice Pemberton—speaking within the hearing and sight of the judges of the Common Pleas, the officers of the Chancery, and all the dense mass of spectators who had been drawn to the Hall by that supremely scandalous *cause célèbre*, terminated by his prompt and firm intervention a scene which Macaulay has stigmatized as "unparalleled in our legal history." Half the fun of the memorable *Dumb Day* farce in Westminster

Hall is unseen if the reader omits from the picture the prying multitude who whispered and tittered at the contumacious silence of the serjeants, and then chuckled with delight as Chief Justice North threatened to carry on the business of the court by means of attorneys, and without the aid of the coif-wearing lawyers. When Chief Justice Jeffreys whispered in the ear of Drunken Bob Wright, and then flinging out his arms made a grimace at Lord Keeper North, who witnessed the scene from his seat in the Court of Chancery, the coarse insult to the Chief of the Law was witnessed by hundreds, and ere an hour had elapsed was reported to thousands. In this same open Hall Cromwell's grandson stood and listened to the abuse which a chancery advocate directed at the memory of the great Protector, and the eyes of a multitude were upon him, when Lord Chancellor Hardwicke rebuked the orator by saying, "I observe Mr. Cromwell standing outside the bar there, inconveniently pressed by the crowd; make way for him that he may sit by me on the bench." That rebuke deserved a large audience.

The discomforts of the open courts were far greater than those of the close apartments in which the legal business of Westminster Hall is at the present time transacted. But though the profession suffered severely from colds and rheumatism caused by the sharp currents of air that passed through the hall in inclement seasons, the conservative spirit of the lawyers discountenanced all proposals for change that might conduce to the comfort of their courts. Of the three courts the Common Pleas was the most disadvantageously placed, being situated, so late as Charles II.'s reign, near the great door of the hall; so that when the north wind was blowing none but barristers of strong constitutions could safely sit in it. Under these circumstances it was proposed to move the court into a back room called the Treasury, and make an entrance into the chamber from the body of the hall. At this date one smiles on hearing that Sir Orlando Bridgeman, the Chief Justice of the court, refused his consent to this suggestion, *because* Magna Charta required the Common Pleas to be held *in certo loco*—whereas, in case the Common Pleas shifted its ground by even so little as a few feet, its precise locality would become a

matter of uncertainty.* Actually this reasoning prevailed; and the serjeants were compelled to brave the north wind for another term of years. After a while, however, the reformers succeeded in shifting the court higher up the hall to the spot where Ned Ward saw it, and where it stands in Gravelot's picture.

Something like a century more elapsed before reform contrived to effect a cautious measure with regard to this matter. Somewhere about the time of George III.'s accession the courts were enclosed with boarding, but were held in the same places as before. Writing in 1800, Ireland says, "At the upper end of hall stand the Courts of Chancery and King's Bench, to which you may ascend by an easy flight of steps. They are modern buildings, erected, we presume, not more than fifty years since." The same writer remarks that the Court of Common Pleas, "on the north side of the hall, has, as well as the Courts of Chancery and King's Bench, been of late years rendered much more commodious and comfortable, from the additional enclosures made to it." From these words, as well as from Gravelot's engraving, it appears that, after its removal from immediate contiguity to the north wall, the court was so near the north-west angle of the hall, that it might still be described as *on north side.*

Thus enclosed with boarding, in the south-east angle, was the Court of King's Bench when John Campbell entered it, June 28, 1800, to hear the trial of Hadfield for shooting at

* Roger North says, "That court (assuming the title Common Pleas) was placed next the hall door, that suitors and their train might readily pass in and out. But the air of the great door, when the wind is in the north, is very cold, and if it might have been done, the court had been moved a little into a warmer place. It was once proposed to let it in through the wall (to be carried upon arches) into a back room which they call the Treasury. But the Lord Chief Justice Bridgman would not agree to it, as against Magna Charta, which says that the Common Pleas shall be held *in certo loco*, or in a certain place, with which the distance of an inch from that place is inconsistent; and all the pleas would be *coram non judice*. Although at the same time others thought that the *locus*, there, means the villa only, so that the returns being *apud Westmonasterium*, the court might sit on the other side of the abbey, and no solecism of jurisdiction happen. But yet that formal reason hindered a useful reform; which makes me think of Erasmus, who having read somewhat of English law, said that the lawyers were 'doctissimum genus indoctissimorum hominum.'"—*Life of the Lord Keeper Guildford.*

George III. "The scene was by no means so august as I had imagined to myself," says the biographer of the Chief Justices. "I expected to see the judges sitting in the great hall, which, though very differently constructed for magnificence, might be compared to the Roman Forum. The place where the trial was going on was a small room enclosed from the open space of the south-east angle, and here were crowded together the judges, the jury, the counsel, the attorneys, and the reporters, with little accommodation for by-standers." But though the Scotch student was disappointed by the meanness of the hall, he was greatly impressed and pleased by the appearance of some of the eminent lawyers who were present.

Towards the close of the last century this inconvenient and ill-ventilated room was the scene of a ludicrous panic. Whilst the judges were sitting and business was in full progress, a tremendous crash and a shrill cry were heard just above the skylight, through which light came from the hall into the dingy and gloomy chamber. The disturbance was caused by a kitchen wench, who, having climbed to the roof of the court with the intention of cleaning the window, upset her huge pail of water, and then screamed with fright. No sooner was the noise heard, than bench and bar, attorneys and clients, jurymen and spectators leaped from their places, and, in their eagerness to escape from the court, showed respect neither for years nor for rank. In itself very comical, the scuffle was rendered even more ridiculous by the caricaturists, who made the most of the absurd incident. No such grotesque terror had been witnessed in Westminster Hall since Nixon, the crazy nonjuring parson, startled Lord Hardwicke and the Chancery bar out of their propriety by putting a match to some gunpowder, and causing a loud but harmless explosion in the Chancellor's court.

Lawyers have suffered severely from fire in their colleges; but at Westminster water is the element that has treated them most unkindly. Its proximity to the river has repeatedly placed the frequenters of the hall in positions of embarrassment and even of danger. In 1236, the Thames so greatly overflowed the northern bank, that "in the great palace of Westminster, men did row with wherries in the middle of the hall." Six years later a similar inundation occurred, on which occasion

"in the great hall at Westminster men took their horses, because the water ran over all." In comparatively recent times the river has been no less mischievous and ungovernable. On March 24, 1735, the lawyers were so completely encompassed by water, that they were glad to escape from their hall in boats or on porters' shoulders, as acknowledged by Law in Henry Fielding's "Pasquin"—

> "*Law.*—'We have our omens too! The other day
> A mighty deluge swam into our hall,
> As if it meant to wash away the law;
> Lawyers were forced to ride on porters' shoulders;
> One, O prodigious omen! tumbled down,
> And he and all his briefs were sous'd together.'"

A similar irruption of water in 1791 is commemorated in a ballad, two stanzas of which ran thus—

> "Come, listen awhile to my lay,
> I sing of a strange inundation,
> That had like to have carried away
> All the wigs and long robes of the nation;
> While thinking of no harm at all,
> But a few wretched people's undoing,
> Father Thames entered Westminster Hall,
> Threat'ning all law and justice with ruin.
>
> "Of the fright universal it spread,
> Conception can ne'er form a notion,
> Wigs bristled upright on each head,
> Each counsellor stood without *motion;*
> The tide that for no man will stay,
> While the clamour grew louder and louder,
> From every tye-wig wash'd away
> Common sense, with the curls and the powder."

The last of the Westminster Hall floods took place on October 18, 1841, when the lawyers were shooting pheasants and their courts were empty.

It is still usual for the Chancellor to entertain the other judges on the first day of Michaelmas Term, and afterwards to go with them in state to Westminster Hall, in which place, from a numerous assembly of young barristers, and ladies specially interested in the welfare and dignity of the legal profession, the reverend chiefs of the law receive a gratifying

hum of admiration, and sometimes an outburst of louder applause as they march in procession from the northern gate to their respective courts. In olden time, and even so late as George IV.'s reign, each term of the year was opened with this formal procession, the ceremony being in many respects more impressive than at present.

To receive the judges on the opening of each new term, the serjeants used to take up position on the west side of the Hall, immediately before their court. There standing in single file, with their faces towards the east wall, they waited the arrival of the judges, who appeared in due order,—first, the Lord Chancellor and his officers; next, the justices of the King's Bench; in the third place, the judges of the Common Pleas; lastly, the Barons of the Exchequer. On coming up to the serjeants the Chancellor shook each serjeant by the hand, saying, as he did so, "How d'ye do, brother? I wish you a good term." Having thus greeted each wearer of the coif, his lordship, attended by his officers, passed on to the Chancery at the southern end of the Hall. In like manner each judge of the King's Bench greeted each serjeant, and then, with his fellows, passed up to the Court of King's Bench. The same urbanity having been displayed by the justices of the Common Pleas, they passed into the peculiar court of the serjeants. Lastly, the Barons of the Exchequer approached, and shaking hands with their dear brothers, the serjeants,* they wheeled round and marched into the Court of Exchequer.

In 1825 the new courts of law in Westminster Hall were

* What pen can do justice to the ancient dignity and splendour of the serjeants, the sumptuous excess of their banquets, which Dugdale describes with entertaining prolixity, the parti-coloured robes with which they formerly charmed the vulgar taste, the sacred wisdom of their order, about which Fortescue speaks with reverential affection, and their ancient privileges, of which the present Queen's ancient serjeant, Mr. Serjeant Manning, has written with characteristic erudition in his "Serviens ad Legem?" Of their coifs and caps something has been said in a former part of this work. Allusion also has been made to their ancient custom of standing at the pillars of St. Paul's, and publicly vending their opinions,—a custom referred to in Chaucer's oft-quoted lines,—

> "A serjeant of the lawe, ware and wise,
> That often hadde yben at the parvis,
> There was also, full riche of excellence,
> Discreet he was and of gret reverence,

in process of construction; and in consequence of the disarrangement of the Hall by builders and carpenters, Hilary Term of that year was not opened in the usual manner. Having breakfasted with Lord Eldon in Lincoln's Inn Hall, the Common-law judges took their leave of the Chancellor at half-past twelve o'clock, and drove to Westminster. At the end of Parliament Street the carriages of the King's Bench justices diverged to the right, and drew up before the new Sessions House, where the Chief Justice held his court, whilst his present chamber was being built. The judges of the Common Pleas and the Barons of the Exchequer took possession of their appointed seats in Westminster Hall; but the serjeants, instead of waiting in file for the greetings of the

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He semed swiche, his wordes were so wise,
Justice he was ful often in assize,
By patent and by pleine commissioun.
For his science and his high renoun
Of fees and robes he had many on,
So gret a pourchasour was no wher non,
All was fee simple to him in effect,
His pourchasing might not been in suspect.
No wher so besy a man there n'as,
And yet he semed besier than he was,
In termes hadde he cas and domes alle,
That fro the time of King Will were a falle,
Thereto he coude endite and make a thing,
Ther coude no wight pinche at his writing;
And every statute could he plaine by rote.
He rode but homely, in a medlee cote,
Girt with a seint of silk with barres smale,
Of his array tell I no longer tale."

Of this *pervise* of old St. Paul's Mr. James Manning, Q.A.S., observes—"Fortescue (De Laudibus, c. 51) says, 'Sed placitantes tunc se divertunt ad *pervisum* et alibi, consulentes cum servientibus ad legem, &c.' Ducange says, 'Paradisus, atrium porticibus circundatum ante ædes sacras, ex. gr. παράδεισος, qui ab Hesychio definitur τόπος ἐν τῷ περίπατοι, locus porticibus et deambulatoriis circundatus, vulgo, *parvis*.'" From this use of the word *paradisus* doubtless came the name of the ancient place of entertainment called "Paradise" which was kept in the purlieus of the Hall. So early as Henry VII.'s reign the custody and profits derived from "Paradyse," "Hell," "Purgatory," were granted by the crown to courtiers. In Charles II.'s London the first mentioned of these drink-shops was frequently called "Heaven,"—by which title Hudibras alludes to it in the line, "False Heaven, at the end of the Hall." It stood in Old Palace Yard.

Before legislation of the present reign (9 and 10 Vict., c. 54) finally deprived the

judges before their chamber, assembled in the Court of Common Pleas, and there expected the arrival of their justices. Whilst the alterations were going forward at Westminster Hall, the Lord Chancellor sate in Lincoln's Inn Hall.

Having spent enough time in the Hall, let us make for the parks; but as we cross Palace Yard, and look again at the Northern Gate, let us remember that in olden time, and so late as the opening of this century, the exterior aspect of the Hall, like the outside of the Temple Church at the same date, was much disfigured by mean and unsightly buildings. Close against the wall, on the right hand of a person entering the Hall, stood the old Exchequer Coffee House, where the advocates of George III.'s era used to meet their clients in consultation. Describing in 1800 the disfigurements of the Hall, Ireland says—"This shameful negligence, in not preserving the original parts, is most conspicuous in the removal of the figures in front; and in the concealment of them, by the erection of those nuisances, the coffee-houses, at the entrance. The Gothic points of the niches are still discernible over part of the Exchequer Coffee House; and the whole-length figures, in the niches beneath them, we have reason to believe are yet

serjeants of their ancient monopoly in the Common Pleas, rendering permanent the change temporarily effected by William IV.'s warrant, the power and prosperity of the serjeants had undergone several variations, and upon the whole very great diminution. At the close of Mary's reign, and at the opening of Elizabeth's, they were in a state of depression,—for either Serjeant Bendloes was actually the only serjeant in existence for several months at that time, or he was the only serjeant who for a while attended Westminster Hall in the pursuit of business. Under Elizabeth the order regained much of their ancient prestige; and throughout the seventeenth century they were powerful and respected,—although their futile opposition to Francis North on Dumb Day, when they refused to speak, tended to make them ridiculous in the eyes of the public. Throughout the eighteenth century they steadily lost influence, and notwithstanding the eminence of some of their fraternity, became objects of pleasantry with the advocates of Erskine's date. Buller used to call them "the heavy blacks;" in allusion to the question often heard in Westminster Hall, "Why is a serjeant's speech like a tailor's goose?"—to which query the answer was, "Because it is hot and heavy." Of late years their decay has been even more rapid and visible. The statute already mentioned was a disastrous blow to an order which in the minds of flippant laymen is associated with Charles Dickens's inimitable caricature of Mr. Serjeant Busfuz, in the 'Pickwick Papers.' The ancient brotherhood of serjeants, however, still numbers some able and very successful practitioners at the bar, who for the most part hold patents of precedence by virtue of which they rank with queen's counsel.

standing. In an ancient print which we have seen of this building, published before the coffee-houses were erected, the figures all appeared perfect; and in course gave great relief to the general elevation. We cannot but sincerely regret the sad innovations that have been made all along this whole range of buildings, by projections of sheds, porter-shops, and other excrescences of the meanest character; which being here huddled promiscuously together, conceal from the public eye every vestige of antiquity."

CHAPTER LXXVII.

LAW AND LITERATURE.

AT the present time, when three out of every five journalists attached to our chief London newspapers are Inns-of-Court men; when many of our able and successful advocates are known to ply their pens in organs of periodical literature as regularly as they raise their voices in courts of justice; and when the young Templar, who has borne away the first honours of his university, deems himself the object of a flattering compliment when he is for the first time invited to contribute to the columns of a leading review or daily journal—it is difficult to believe that strong men are still amongst us who can remember the days when it was the fashion of the bar to disdain law-students who were suspected of "writing for hire" and barristers who "reported for the papers." Throughout the opening years of the present century, and even much later, it was almost universally held on the circuits and in Westminster Hall, that Inns-of-Court men lowered the dignity of their order by following those literary avocations by which some of the brightest ornaments of the law supported themselves at the outset of their professional careers. Notwithstanding this prejudice, a few wearers of the long robe, daring by nature, or rendered bold by necessity, persisted in "maintaining a connexion with the press" whilst they sought briefs on circuit, or waited for clients in their chambers. Such men as Serjeant Spankie and Lord Campbell, as Master Stephen and Mr. Justice Talfourd, were reporters for the press whilst they kept terms; and no sooner had Henry Brougham's eloquence charmed the public, than it was whispered that for years his pen, no less ready than his tongue, had found constant employment in organs of political intelligence.

But though such men were known to exist, they were regarded as the "black sheep" of the bar by a great majority of their profession. It is not improbable that this prejudice against gownsmen on the press was palliated by circumstances that no longer exist. When political writers were very generally regarded as dangerous members of society, and when conductors of respectable newspapers were harassed with vexatious prosecutions and heavy punishments for acts of trivial inadvertence, or for purely imaginary offences, the average journalist was in many respects inferior to the average journalist working under the present more favourable circumstances. Men of culture, honest purpose, and fine feeling were slow to enrol themselves members of a despised and proscribed fraternity; and in the dearth of educated gentlemen ready to accept literary employment, the task of writing for the public papers too frequently devolved upon very unscrupulous persons, who rendered their calling as odious as themselves. A shackled and persecuted press is always a licentious and venal press; and before legislation endowed English journalism with a certain measure of freedom and security, it was seldom manly and was often corrupt. It is therefore probable that our grandfathers had some show of reason for their dislike of contributors to anonymous literature. At the bar men of unquestionable amiability and enlightenment were often the loudest to express this aversion for their scribbling brethren. It was said that the scribblers were seldom gentlemen in temper; and that they never hesitated to puff themselves in their papers. These considerations so far influenced Mr. Justice Lawrence that, though he was a model of judicial suavity to all other members of the bar, he could never bring himself to be barely civil to advocates known to be "upon the press."

At Lincoln's Inn this strong feeling against journalists found vent in a resolution, framed in reference to a particular person, which would have shut out journalists from the Society. It had long been understood that no student could be called to the bar *whilst* he was acting as a reporter in the gallery of either house; but the new decision of the benchers would have destroyed the ancient connexion of the legal profession and literary calling. Strange to say this illiberal measure

was the work of two benchers who, notwithstanding their patrician descent and associations, were vehement assertors of liberal principles. Mr. Clifford—"O. P." Clifford—was its proposer, and Erskine was its seconder. Fortunately the person who was the immediate object of its provisions petitioned the House of Commons upon the subject, and the consequent debate in the Lower House decided the benchers to withdraw from their false position; and since their silent retreat no attempt has been made by any of the four honourable societies to affix an undeserved stigma on the followers of a serviceable art. Upon the whole the literary calling gained much from the discreditable action of Lincoln's Inn; for the speech in which Sheridan covered with derision this attempt to brand parliamentary reporters as unfit to associate with members of the bar, and the address in which Mr. Stephen, with manly reference to his own early experiences, warmly censured the conduct of the society of which he was himself a member, caused many persons to form a new and juster estimate of the working members of the London press. Having alluded to Dr. Johnson and Edmund Burke, who had both acted as parliamentary reporters, Sheridan stated that no less than twenty-three graduates of universities were then engaged as reporters of the proceedings of the house.

The close connexion which for centuries has existed between men of law and men of letters is illustrated on the one hand by a long succession of eminent lawyers who have added to the lustre of professional honours the no less bright distinctions of literary achievements or friendships, and on the other hand by the long line of able writers who either enrolled themselves amongst the students of the law, or resided in the Inns of Court, or cherished with assiduous care the friendly regard of famous judges. Indeed, since the days of Chancellor de Bury, who wrote the 'Philobiblon,' there have been few Chancellors to whom literature is not in some way indebted; and the few Keepers of the Seal who neither cared for letters nor cultivated the society of students, are amongst the judges whose names most Englishmen would gladly erase from the history of their country. Jeffreys and Macclesfield represent the unlettered Chancellors; More and Bacon the lettered. Fortescue's

'De Laudibus' is a book for every reader. To Chancellor Warham, Erasmus—a scholar who was not given to distribute praise carelessly—dedicated his 'St. Jerom,' with cordial eulogy. Wolsey was a patron of letters. More may be said to have revived, if he did not create, the literary taste of his contemporaries, and to have transplanted the novel to English soil. Equally diligent as a writer and a collector of books, Gardyner spent his happiest moments at his desk, or over the folios of the magnificent library which was destroyed by Wyat's insurgents. Christopher Hatton was a dramatic author. To one person who can describe with any approach to accuracy Edward Hyde's conduct in the Court of Chancery, there are twenty who have studied Clarendon's 'Rebellion.' At the present date Hale's books are better known than his judgments, though his conduct towards the witches of Bury St. Edmunds conferred an unenviable fame on his judicial career. By timely assistance rendered to Burnet, Lord Nottingham did something to atone for his brutality towards Milton, whom, at an earlier period of his career, he had declared worthy of a felon's death, for having been Cromwell's Latin secretary. Lord Keeper North wrote upon 'Music;' and to his brother Roger literature is indebted for the best biographies composed by any writer of his period.* In his boyhood Somers was a poet; in his maturer years the friend of poets. The friend of Prior and Gay, Arbuthnot and Pope,† Lord Chancellor Harcourt wrote verses of more than ordinary

* Roger North, however, had no high regard for literature or its followers. In the Preface to the 'Life of Lord Keeper Guildford,' he attacks Echard for having "condescended to adorn the characters of departed quacks, *poets*, fanatics, and almanick-makers."

† The choicest memorial of the great lawyer's friendship with the first poet of his age, is Pope's inscription on the monument of the Chancellor's son—in Stanton-Harcourt church:—

"To this sad shrine, whoe'er thou art, draw near!
Here lies the friend most lov'd, the son most dear:
Who ne'er knew joy, but friendship might divide,
Or gave his father grief, but when he died.

"How vain is reason, eloquence how weak!
If Pope must tell what Harcourt cannot speak.
Oh! let thy once lov'd friend inscribe thy stone,
And, with a father's sorrow, mix his own."

merit, and alike in periods of official triumph and in times of retirement, valued the friendship of men of wit above the many successes of his public career. Lord Chancellor King was John Locke's dutiful nephew and favourite companion. King's immediate successor was extolled by Pope in the lines,

> O teach us, Talbot! thou'rt unspoil'd by wealth,
> That secret rare, between the extremes to move,
> Of mad good-nature and of mean self-love.
> Who is it copies Talbot's better part,
> To ease th' oppress'd, and raise the sinking heart?

But Talbot's fairest eulogy was penned by his son's tutor, Alexander Thomson—a poet who had no reason to feel gratitude to Talbot's official successor. Ere he thoroughly resolved to devote himself to law the cold and formal Hardwicke had cherished a feeble ambition for literary distinction; and under its influence he wrote a paper that appeared in the *Spectator.* Blackstone's entrance at the Temple occasioned his metrical 'Farewell' to his muse.* In his undergraduate days at Cambridge Lord Chancellor Charles Yorke was a chief contributor to the 'Athenian Letters,' and it would have been well for him had he in after-life given to letters a portion of the time which he sacrificed to ambition. Thurlow's churlishness and overbearing temper are at this date trifling matters in comparison with his friendship for Cowper and Samuel Johnson, and his kindly aid to George Crabbe. Even more than for the wisdom of his judgments Mansfield is remembered for his intimacy with "the wits," and his close friendship with that chief of them all, who exclaimed, "How sweet an Ovid, Murray, was our boast," and in honour of that "Sweet Ovid" penned the lines,

> "Graced as thou art, with all the power of words,
> So known, so honoured in the House of Lords,"—

verses deliciously ridiculed by the parodist who wrote,

> "Persuasion tips his tongue whene'er he talks:
> And he has chambers in the King's Bench walks."

* Of Blackstone, in his 'Judges of England,' Mr. Foss observes:—"Notwithstanding this formal adieu, he could not altogether refrain, and among other pieces he wrote some verses on the death of the Prince of Wales in 1751, which were published in the Oxford Collection as the composition of his brother-in-law, James Clitherow. He amused himself by annotating Shakspeare, and communicated his notes to Mr. Stevens, who inscribed them in his last edition of the Plays."

As an atonement for many defects Alexander Wedderburn had one virtue—an honest respect for letters that made him in opening manhood seek the friendship of Hume, at a later date solicit a pension for Dr. Johnson, and after his elevation to the woolsack overwhelm Gibbon with hospitable civilities. Eldon was an Oxford Essayist in his young, the compiler of 'The Anecdote Book' in his old days; and though he cannot be commended for literary tastes, or sympathy with men of letters, he was one of the many great lawyers who found pleasure in the conversation of Samuel Johnson.* Unlike his brother, Lord Stowell clung fast to his literary friendships, as "Dr. Scott of the Commons" priding himself more on his membership in the Literary Club than on his standing in the Prerogative Court; and as Lord Stowell evincing cordial respect for the successors of Reynolds and Malone, even when love of money had taken firm hold of his enfeebled mind. Archdeacon Paley's London residence was in Edward Law's house in Bloomsbury Square. In Erskine literary ambition was so strong that, not content with the fame brought to him by excellent *vers de société*, he took pen in hand when he resigned the seals, and—more to the delight of his enemies than the satisfaction of his friends—wrote a novel,† which neither became, nor deserved to be, permanently successful. With similar zeal and

* The lawyers with whom Johnson at various periods of his career fought colloquial duels, have become historic names. Loughborough, Thurlow, Eldon, Stowell, and Erskine, are amongst the number. Johnson had cause to regret that he had never been in the company of Lord Mansfield, whose merit he humorously recognised by mentioning him as an instance of what might be made of a Scotchman who had been *caught young*. To the question, "What would you have said of him, Dr. Johnson, if he had been an Englishman?" the doctor answered, "Sir, I would *not* have said of him what I now *do say*—that he was the only great man his country ever produced." To the Chancellor whose judicial criticisms of Shelley's poetry are amongst the absurdest achievements of legal self-sufficiency, we are indebted for some of our best stories of the doctor. "I had a walk," said Eldon, "in New Inn Hall Garden, with Dr. Johnson and Sir Robert Chambers, and some other gentlemen. Sir Robert was gathering snails and throwing them over the wall into his neighbour's garden. 'The doctor reproached him very roughly, asserting that this was unmannerly and unneighbourly.' 'Sir,' said Sir Robert, 'my neighbour is a dissenter.' 'Oh,' said the doctor, 'if so, Chambers, toss away, toss away, as hard as you can.'"

† With no greater share of success Lord Brougham followed Erskine in appealing to the public as a writer of prose fiction—a kind of composition which they were

greater ability the literary reputation of the bar has been maintained—by Lord Denman, who was an industrious *littérateur* whilst he was working his way up at the bar; by Sir John Taylor Coleridge, whose services to the *Quarterly Review* are an affair of literary history; by Sir Thomas Noon Talfourd, who, having reported in the gallery, lived to take part in the debates of the House of Commons, and who from the date of his first engagement on the *Times* till the sad morning when "God's finger touched him" while he sate upon the bench, never altogether relinquished those literary pursuits, in which he earned well-merited honour; by Lord Campbell, who dreamt of living to wear an SS. collar in Westminster Hall whilst he was merely John Campbell the reporter;* by Lord Brougham, who, having

perhaps induced to attempt by the enduring fame of Lord Chancellor More's 'Utopia,' and Lord Chancellor Bacon's 'New Atlantis.' Erskine's novel was praised by Dr. Parr; but the critic may confidently assert that it would not have won the celebrated Latinist's good opinion, had its author been a Tory. After running through more than one edition, it is now deservedly forgotten. Lord Brougham's novel was even less successful, because it was published anonymously; but a copy of it may be picked up occasionally at a high price from the second-hand book-dealers. A few months since a copy was exhibited in the window of a Pall Mall book-shop; but in consequence of the high price put upon it, several weeks elapsed before the literary curiosity found a purchaser. Possibly some readers will feel surprised on learning that four of our Lord Chancellors have been novelists, and that a considerable proportion of our great lawyers have been inordinately fond of romances and novels. Lord Camden (whose unsuccessful candidature for admission into the Literary Club keenly mortified him) was a greedy devourer of prose fiction; and late in life he learnt Spanish, solely that he might, in the romances of Spain, find food for that craving which the labours of his much-admired French and English romance-writers were unable to satisfy. Unlike Chief Justice Lee, who is said to have been goaded into transient fury and lasting discomfort by Addison's sketch of the Templar in the 'Spectator's Club,' Lord Thurlow delighted in novels, and often roused his servant at the dead of night, ordering him to dress, hasten to the library, wake the librarian, and bring him the *last* volume of a new novel that would not let him sleep. Edward Law (Lord Ellenborough) could relish even the feeblest of poor novels; and is said to have wept like a child over Mrs. Sheridan's 'Sidney Biddulph.' Lord Campbell tells his readers that "Jockey Bell, the famous Chancery pleader, having said that he read all the new novels, and being asked how he found time, answered, 'I soon find out *the charging part*'—wherein lies the virtue of a bill in Chancery. At the present time it is known in Lincoln's Inn and Westminster Hall, that some of our most successful advocates and chamber-practitioners contrive to find time to read the *best* of the season novels, as they appear and run through the libraries."

* Having, in the first place, ridiculously overrated the merit of Lord Campbell's literary productions, inferior critics and ordinary readers exhibit corresponding want

instructed our grandfathers with his pen, still remains upon the stage, giving their grandsons wise lessons with his tongue;

of judgment in denying to them the merit which is certainly their due. So long as incautious readers and youthful students were likely to accept the 'Chancellors' and the 'Chief Justices' as authoritative history, it was necessary to speak in clear terms of their conspicuous failings—of which the most important are want of accuracy, and total absence of original thought, as well as of original inquiry. Written without due deliberation and without adequate research, at a period when the successful lawyer had neither sufficient political excitement, nor enough professional employment, these biographies are hasty compilations, combining new mistakes with the blunders, of inadvertence or prejudice or sheer ignorance, of former writers; but, taken with all their faults, the volumes have good qualities and purposes. As a painter of the social history of his profession, Campbell is still without an equal; and by keeping him in the memory of ordinary readers, when his judgments shall be forgotten by all, save lawyers,—his books will undoubtedly accomplish the hope of their author. Throughout them all, let it be observed, there may be found manifestations of sincere admiration for scholarship, in the most liberal sense of the word, signs of a generous appreciation of contemporary as well as dead writers, and indications of lively interest in every matter relating to literature. In these respects the tone of the books is creditable to the writer, and beneficial to the majority of readers. In his memoir of Somers, the biographer laments the reprehensible imprudence of those English lawyers who, "while in practice, or in office, devote themselves exclusively to professional avocations, and in their retirement, left without mental resources, waste their declining years in frivolous occupations or in vain regrets;" and in the 'Life' of Hardwicke, reflecting on that Chancellor's neglect of letters and literary men, he observes, "He has had his reward. Whilst Somers, Harcourt, and Murray are immortalized in the poems of Addison and Pope, Hardwicke was only praised by the dull authors of treatises on the practice of the Court of Chancery, or dull compilers of Chancery Reports. With all his titles and his wealth, how poor is his fame in comparison with that of his contemporary, Samuel Johnson, whom he would not have received at his Sunday evening parties in Powis House, or invited to hear his state stories at Wimpole! A man desirous of solid fame would rather have written the 'Rambler,' the 'Vanity of Human Wishes,' 'Rasselas,' or the 'Lives of the Poets,' than have delivered all Lord Hardwicke's speeches in Parliament, and all his judgments in the Court of Chancery; although the author had been sometimes obliged to pass the night on the ashes of a glass-house, and at last thought himself rich with his 300*l.* pension—while the peer lived in splendour, and died worth a million." Pointing to Sir Samuel Romilly as a lawyer, who, departing from the fashion of his profession, resolutely devoted a portion of each day to the cultivation of polite letters, Campbell quotes the testimony of a bishop who says, "I remember travelling, many years ago, with Sir S. Romilly one stage in his carriage, which was filled with the best books of the general literature of the day. To a remark from me that I rejoiced to see that he found time for such reading, he answered, 'As soon as I found I was to be a busy lawyer for life, I strenuously resolved to keep up my habit of non-professional reading; for I had witnessed so much misery in the last years of many great lawyers whom I had known, from their loss of all taste for books, that I regarded their fate as my warning.'"

and by Lord Romilly, whose services to English literature have won for him the gratitude of scholars.

When Sir William Jones, eminent as a lawyer but famous as a scholar, resolved to conquer his strong bias for literary labour and to apply steadfastly to the unalluring study of law, he wrote to his friend Hawkins, "As to the years in which the poems were written, I would wish to specify them; for it would hurt me as a student at the bar to have it thought that I continue to apply myself to poetry; and I mean to insinuate that I have given it up for several years, which I must explain more fully in the preface; for a man who wishes to rise in the bar must be supposed to have no other object." The poems thus mentioned were published in 1772; and two years later he gave the world his great work on Asiatic Poetry. The Oriental scholar wrote thus cautiously to his friend at a time when attorneys seldom received a liberal education, and consequently were, as a class, firm believers in the maxim—popular with illiterate persons in every grade of life—which teaches that no man can thoroughly master the secrets of more than one craft. At the present day when lawyers of the inferior branch are, with comparatively few exceptions, men of culture and polite associations, the literary barrister, who really "knows his profession," has so little to fear from this antiquated, and almost obsolete prejudice, that he no longer endeavours to cover with a veil of reticence or conventional misrepresentation his relations with editors and publishers. When Mr. Townsend,* a sound lawyer and able author, wrote the 'Lives of Twelve Eminent Judges'—a work which supplied Campbell with the materials, and in many places the language, of the best memoirs in the 'Chancellors' and 'Chief Justices'—he was able to write "'The Lawyer's Farewell to the Muse' of Blackstone; the lament of Pope, 'How sweet an Ovid, Murray, was thy boast;' the prejudices of the benchers who could tolerate no music but the chorus of Burns's 'Justice,' encouraged for a long time the superstitious notion, which it would have appeared too paradoxical to question, that law must be divorced from literature. This heretical tenet is, at length, almost exploded,

* Mr. Townsend was recorder of Macclesfield.

and lingers only in a few nooks and corners of Westminster Hall. A Vinerian professor has ventured on a continuation of Dryden's 'Hind and Panther.' A King's Counsel has favoured this prosaic age with a play equal to that of Elizabeth, whose very spirit it appears to have imbibed. A learned serjeant has proved in a drama, worthy of its classical model, that the richest imagination and deepest feeling are not alien from a successful and daily practice in our courts. A quondam editor of our earliest great Review has been elevated to the bench; and the editor of the *Quarterly Review* adorns the judgment seat of the Queen's Bench; and, not to dwell on inferior examples, one of the most active and able of our periodical writers has drawn the first prize in the law's wheel, and has rested, though not reposed, on the woolsack. It must be confessed that these are all modern examples, and still regarded as instances of lucky rashness by the more staid practitioners of the statute and common law." In these days literary lawyers, strong in law as well as letters, are so numerous that to speak of them at the bar-table of any lawyers' dining-hall as "instances of lucky rashness" would raise a smile of dissent on the face of nearly every hearer.

Of each generation of writers between the accession of Elizabeth and the present time, several of the most conspicuous names are either found on the rolls of the inns, or are closely associated in the minds of students with the life of the law-colleges. Shakespeare's plays abound with testimony that he was no stranger in the legal inns, and the rich vein of legal lore and diction that runs through his writings has induced more judicious critics than Lord Campbell to conjecture that he may at some early time of his career have directed his mind to the study, if not the practice, of the law. Amongst Elizabethan writers who belonged to inns may be mentioned—George Ferrars, William Lambarde, Sir Henry Spelman, and that luckless pamphleteer John Stubbs, all of whom were members of Lincoln's Inn; Thomas Sackville, Francis Beaumont the Younger, and John Ferne, of the Inner Temple; Walter Raleigh, of the Middle Temple; Francis Bacon, Philip Sidney, George Gascoyne, and Francis Davison, of Gray's Inn. Sir John Denham, the poet, became a Lin-

coln's-Inn student in 1634; and Francis Quarles was a member of the same learned society. John Selden entered the Inner Temple in the second year of James I., where in due course he numbered, amongst his literary contemporaries, — William Browne, Croke, Oulde, Thomas Gardiner, Dynne, Edward Heywood, John Morgan, Augustus Cæsar, Thomas Heygate. Thomas May, dramatist and translator of Lucan's 'Pharsalia,' William Rough and Rymer were members of Gray's Inn. Sir John Davis and Sir Simonds D'Ewes belonged to the Middle Temple. Massinger's dearest friends lived in the Inner Temple, of which society George Keate, the dramatist, and Butler's stanch supporter William Longueville, were members. Milton passed the most jocund hours of his life in Gray's Inn, in which college Cleveland and the author of 'Hudibras' held the meetings of their club. Wycherley and Congreve, Aubrey and Narcissus Luttrell* were Inns-of-Court men. In later periods we find Thomas Edwards, the critic; Murphy, the dramatic writer; James Mackintosh, Francis Hargrave, Bentham, Curran, Canning, at Lincoln's Inn. The poet Cowper was a barrister of the Temple. Amongst other Templars of the eighteenth century, with whose names the literature of their time is inseparably associated, were Henry Fielding, Henry Brooke, Oliver Goldsmith, and Edmund Burke. Samuel Johnson resided both in Gray's Inn and the Temple, and his friend Boswell was an advocate of respectable ability as well as the best biographer on the roll of English writers.†

* Describing the penurious habits of this eccentric diarist, Hearne says, "But though he was so curious in collecting and amassing together, yet he affected to live so private as hardly to be known in person; and yet for all that he must be attended to his grave by judges and the first of his profession in the law, to whom, such was the sordidness of his temper, he would not have given a meal's meat in his life."—Hearne's *MS. Diary*. Thus living diarists criticise their dear brother diarists departed.

† The foregoing are but a few taken from hundreds of names that illustrate the close union of Law and Literature in past times. To lengthen the list would but weary the reader; and no pains would make a perfect muster roll of all the literary lawyers and *legal littérateurs* who either are still upon the stage, or have only lately passed away. In their youth four well-known living novelists—Mr. William Harrison Ainsworth, Mr. Shirley Brooks, Mr. Charles Dickens, and Mr. Benjamin Disraeli—passed some time in solicitors' offices. Mr. John Oxenford was articled to an attorney. Mr. Theodore Martin resembles the authors of the 'The Rejected

Addresses' in being a successful practitioner in the inferior branch of the law. Mr. Charles Henry Cooper was a successful solicitor. On turning over the leaves of that useful book, 'Men of the Time,' the reader finds mention made of the following men of letters and law—Sir Archibald Alison, Mr. Thomas Chisholm Anstey, Mr. William Edmonstone Aytoun, Mr. Philip James Bailey, Mr. J. N. Ball, Mr. Serjeant Peter Burke, Sir J. B. Burke, Mr. John Hill Burton, Mr. Hans Busk, Mr. Isaac Butt, Mr. George Wingrove Cooke, Sir E. S. Creasy, Dr. Dasent, Mr. John Thaddeus Delane, Mr. W. Hepworth Dixon, Mr. Commissioner Fonblanque, Mr. William Forsyth, Q.C., Mr. Edward Foss, Mr. William Carew Hazlitt, Mr. Thomas Hughes, Mr. Leone Levi, Mr. Lawrence Oliphant, Mr. Charles Reade, Mr. W. Stigant, Mr. Tom Taylor, Mr. McCullagh Torrens, Mr. M. F. Tupper, Dr. Travers, Mr. Samuel Warren, and Mr. Charles Weld. Some of the gentlemen in this list are not merely nominal barristers, but are practitioners with an abundance of business. Amongst those to whom the editor of 'Men of the Time' draws attention as 'Lawyers,' and who either are still rendering or have rendered good service to literature, occur the names of Sir William A'Beckett, Mr. W. Adams, Dr. Anster, Sir Joseph Arnould, Sir George Bowyer, Sir John Coleridge, Mr. E. W. Cox, Mr. Wilson Gray, Mr. Justice Haliburton, Mr. Thomas Lewin, Mr. Thomas E. May, Mr. J. G. Phillimore, Mr. James FitzJames Stephen, Mr. Vernon Harcourt, Mr. James Whiteside. Some of the distinguished men mentioned in this note have already passed to another world since the publication of the last edition of 'Men of the Time;' but their recorded connexion with literature as well as law no less serves to illustrate an important feature of our social life. It is almost needless to remark that the names of many of our ablest anonymous writers do not appear in 'Men of the Time.' The writer of this book numbers amongst his personal friends a dozen lawyers, who are most efficient journalists, but whose names do not appear in that excellent repertory of living celebrities.

CHAPTER LXXIX.

LAW AND CULTURE.

A SURVEY of the literary achievements of the bar may be appropriately followed by a few remarks on the general culture of the legal profession. In the last century lawyers were by no means so liberally trained as they have been during the last sixty years. With the exception of a few gracious and graceful scholars who exercised no perceptible influence on the less cultivated members of their order, the successful practitioners were a pedantic and narrow-minded class. A prosperous attorney, who had learnt Greek in the forms of a public school, would have been regarded as a strange social phenomenon by Thurlow in his younger days. A successful solicitor who had graduated at Oxford, or who held a fellowship in the sister-university, was a character unknown when George III. was a little boy. In that period boys destined for the inferior branch of the law were caught in their thirteenth year and articled to attorneys, who treated them something better than they would have treated parish apprentices, much worse than any decent householder of the present day would treat his errand-boy or his page. To stand in the presence of his instructor until he had received express permission to take a seat; to call this instructor's wife 'mistress,' and to touch his cap (without presuming to speak to her) whenever he met her in the street; to follow at her heels when she went to market, and bring back her purchases to his master's kitchen; to spend eight hours a-day in copying papers or engrossing parchments,—these were some of the duties and services required of an attorney's articled pupil when George II. used to play whist with Lady Yarmouth. The treatment which

Philip Yorke, afterwards Lord Chancellor of England, received at the hands of his master's wife, at least justifies us in inferring that the articled pupils of inferior solicitors were housed, fed, and taught like the apprentices of petty tradesmen.

Whilst this was the ordinary professional education of the attorneys whom Horace Walpole designated "those pests of society," the students of the Inns of Court—(*i.e.*, the students who were designed by thrifty parents to be working counsellors; the idle, rich, fashion-following students and barristers formed a distinct class)—were too frequently trained with narrow views and on sordid principles. Their knowledge of law was gained in the offices of attorneys, who treated them with civility as young men vastly superior to such trash as "mere articled clerks," but who were powerless to teach them more than the practice of their profession. Occasionally they had been at the Universities: in many cases they were raw lads, fresh from country villages or suburban schools, ignorant of Greek, and knowing no Latin save law-Latin.* That the practical education of the attorney's office was most useful to students for the bar, we know from the testimony of many great lawyers who had recourse to it during their periods of pupilage; but its deficiencies were so grave and evident that it no longer commanded the general respect of students when pleaders and conveyancers opened their chambers for purposes of instruc-

* The author of 'Law and Lawyers,' observes: "Lord Tenterden studied in an attorney's office. Chief Baron Thomson commenced his legal studies in an attorney's office, as also did Lord Wynford and Sir William Grant. Lord Thurlow was articled, together with Cowper, the poet, to a solicitor near Bedford Row; and his great predecessor, Lord Hardwicke, passed through the same ordeal. Dunning was in his father's office for a considerable time. Lord Mansfield actually practised as an attorney. Lord Kenyon served his articles. Sir William Garrow passed some time in a solicitor's office, as did Sir Samuel Romilly. Lord Gifford was regularly articled; as also was Lord Lifford, Chancellor of Ireland; Sir George Wood, and Sir Francis Buller, our learned and distinguished judges. If we had to refer to eminent men of the present day, we should find little difficulty in pointing to some great names who have ascribed their success in life to the training they have received in attorneys' offices. The names of Wilde, Adolphus, Preston, and many others could readily be mentioned. Lord Brougham once publicly declared in the Court of Chancery, that if he had to recommence his legal studies he would begin as a clerk in an attorney's office." Readers may also be reminded that Lord Campbell received his first legal training in a solicitor's office; and that Lord Truro for a considerable time practised as a solicitor.

tion; and notwithstanding the authority of such men as Brougham and Campbell, who have both extolled the solicitor's office as a school for lawyers of the higher grade, there is no reason to think that bar-students will soon return to their former teachers.

During the present century the non-professional education of the English bar has unquestionably been far higher and more complete than at any previous period of our history; and for the last ten or twenty years the Inns of Court have absorbed so large a proportion of the "flower of the universities," that many persons, not given to alarm, are of opinion that evil days are in store for the Established Church, which is so much less attractive than formerly to the "best men" and the "poll" of Oxford and Cambridge, that it yearly finds itself more and more in need of the inferior clergy supplied by the training schools.* Of the men now-a-days called to the bar, about two-thirds are graduates of Oxford, Cambridge, or Dublin; and of the students who make up the remaining third, the less scholarly are usually by no means inferior in culture to the "passmen" of the universities—whilst those of them, in whom intellectual tastes and studious habits have been fostered, will endure comparison with any of the university men, save those of the very highest grade.

The value of an university education as a preparatory training for the bar, and the comparative merits of the two old English universities as nurseries for the Inns of Court, are frequent topics of rather conjectural and decidedly inconclusive discussion with persons interested in the legal professional. So far as statistics gathered by the present writer point to any conclusion with regard to one question in this often-renewed de-

* Of course the various departments of the public service, under existing regulations, absorb a very large number of the most studious and able of our young university men; but no one familiar with the life of the Inns of Court, or the Universities, during the last fifty years, will question that whilst the "picked men" of the universities have for some time evinced a growing disinclination to enter the clerical profession they have displayed a corresponding preference for the bar. The number of men now upon the books of Lincoln's Inn who have won the "high honours" of Oxford and Cambridge, is a suggestive fact. By some persons the fact is assigned to "the influence of fashion;" but how is the fashion to be accounted for?

bate, it appears that the Cambridge education* is preferable to the Oxford training.

In the last volume of his 'Judges of England,' Mr. Foss gives us memoirs of the following eighty-two judges, and from those memoirs the reader may gather the facts brought together in this list:—

	Place of Education.
1. Lord Wynford.	Wadham College, Oxford.
2. Sir James Burrough, C.P.	
3. Sir Robert Dallas, Ch. C.P.	
4. Lord Gifford.	
5. Sir Robert Graham, B.E.	Trinity College, Cambridge: 3rd wrangler.
6. Sir Anthony Hart, V.C.	
7. Sir George Sowley Holroyd, Just. K.B.	
8. Sir John Hullock, B.E.	
9. Sir Francis Maseres, Curs. B.E.	Clare Hall, Cambridge: 4th wrangler; senior Chancellor's medallist.
10. Sir Thomas Plumer, M.R.	University College, Oxford.
11. Sir Richard Richards, Ch. B.E.	
12. Sir John Richardson, Just. C.P.	University College, Oxford.
13. Lord Eldon.	University College, Oxford: winner of Lord Lichfield's prize for English prose.
14. Sir George Wood, B.E.	
15. Lord Tenterden.	Corpus Christi Coll., Oxford: winner of the only two honours then open to competition—*i.e.*, the Chancellor's medals for Latin and English composition.
16. Sir William Alexander, Ch. B.E.	

* Readers must understand that education here means the system of study resolutely carried out. Mere residence for three or four years at Oxford or Cambridge, concluding with an ordinary passman's degree, however beneficial it may be to the moral tone of a naturally well-endowed adl, is not likely to give him any decided mental superiority over young men who have passed the same time in educated society away from the university.

	Place of Education.
17.*Sir John Bayley, Just. K.B.	
18. Lord Brougham,	Edinburgh.
19. Sir William Garrow, B.E.	
20. Sir Stephen Gaselee, Just. C.P.	
21. Sir John Leach, M.R.	
22. Sir W. E. Taunton, Just. K.B.	Christ Church, Oxford: winner of Chancellor's prize for English Essay.
23. Sir Edward Hall Alderson, B.E.	Caius College, Cambridge: senior wrangler; Smith's prizeman; senior medallist.
24. Sir George Banks, Curs. B.E.	Trinity Hall, Cambridge.
25. Lord Westbury.	Wadham College, Oxford: 1st classman in classics; 2nd classman in mathematics.
26. Lord Langdale.	Caius College, Cambridge: senior wrangler; senior Smith's prizeman.
27. Sir Colin Blackburn, Just. Q.B.	Trinity College, Cambridge: 8th wrangler.
28. Sir William Bolland, B.E.	Trinity College, Cambridge; three times Seatonian prizeman.
29. Sir John Bernard Bosanquet, Just. C.P.	Christ Church, Oxford.
30. Sir George W. W. Bramwell, B.E.	
31. Sir J. L. Knight Bruce, Lord Justice.	

* Of this judge the author of 'Law and Lawyers' records:—"Mr. Justice Bayley, while on the Northern Circuit, was one day summing up to a jury, when he was very much disturbed by Mr. Gray, son of a late Bishop of Bristol, who was talking in court with another counsel rather loudly. The judge gently reproved the offender by saying to him, 'Mr. Gray, if ever you arrive here—which some of these days I hope you will do—you will know the inconvenience of counsel talking while you are summing up.'" This courtesy was characteristic of the man. Of courtesy that cannot be called characteristic, an instance was once given by sour Lord Kenyon. Whilst examining a witness, Best (afterwards Lord Wynford) was interrupted by Garrow, then in the fulness of his forensic success, who exclaimed, "That is not evidence!" "No," rejoined the Chief Justice, coming to the relief of his favourite junior, "it is not evidence as it stands; but Mr. Best is a very sensible young man, and we must trust that he will follow it up with other questions that will make it evidence."

	Place of Education.
32. Sir J. Bernard Byles, Just. C.P.	
33. Lord Campbell.	
34. Sir W. F. Channell, B.E.	
35. Sir Alexander Cockburn, Ch. Q.B.	Trinity Hall, Cambridge: English essayist.
36. Sir J. Taylor Coleridge, Just. Q.B.	Corpus Christi College, Oxford: first class-man; winner of three Chancellor's prizes.
37. Sir Thomas Coltman, Just. C.P.	Fellow of Trinity College, Cambridge.
38. Lord Lyndhurst.	Fellow of Trinity College, Cambridge: 2nd wrangler; Smith's prizeman.
39. Sir Creswell Creswell, Just. C.P.	Emanuel College, Cambridge.
40. Sir Charles Crompton, Just. Q.B.	Trinity College, Dublin: winner of honours.
41. Sir R. B. Crowder, Just. C.P.	Trinity College, Cambridge.
42. Lord Denman.	St. John's College, Cambridge.
43. Sir William Erle, Ch. C.P.	New College, Oxford.
44. Lord Erskine.	Trinity College, Cambridge.
45. Sir John Gurney, B.E.	
46. Sir Hugh Hill, Just. Q.B.	Dublin University.
47. Sir John Jervis, Ch. C.P.	Trinity College, Cambridge.
48. Sir H. S. Keating, Just. C.P.	
49. Sir R. Torin Kindersley, V.C.	Fellow of Trinity College, Cambridge; 4th wrangler.
50. Sir Joseph Littledale, Just. Q.B.	St. John's College, Cambridge: senior wrangler; first Smith's prizeman.
51. Sir Samuel Martin, B.E.	Trinity College, Dublin.
52. Sir W. H. Maule, Just. C.P.	Fellow of Trinity College, Cambridge: senior wrangler.
53. Sir John Mellor, Just. Q.B.	
54. Sir James Alan Park, Just. C.P.	
55. Lord Wensleydale.	Fellow of Trinity College, Cambridge: fifth wrangler; senior Chancellor's medallist.

	Place of Education.
56. Sir James Parker, V.C.	Trinity College, Cambridge: seventh wrangler.
57. Sir John Patterson, Just. K.B.	Fellow of King's College, Cambridge: winner of Davies' University Scholarship.
58. Lord Cottenham.	Trinity College, Cambridge.
59. Sir Gillery Pigott, B.E.	
60. Sir T. J. Platt, B.E.	Trinity College, Cambridge.
61. Sir Frederick Pollock, Ch. B.E.	Fellow of Trinity College, Cambridge: senior wrangler.
62. Lord Cranworth.	Trinity College, Cambridge: 17th wrangler.
63. Lord Romilly.	Trinity College, Cambridge.
64. Lord Abinger.	Trinity College, Cambridge.
65. Sir L. Shadwell, V.C.	Fellow of St. John's College, Cambridge: seventh wrangler; Chancellor's medallist.
66. Sir William Shee, Just. Q.B.	
67. Sir John Stuart, V.C.	
68. Lord St. Leonards.	
69. Sir Thomas Noon Talfourd, Just. C.P.	
70. Lord Chelmsford.	
71. Sir N. C. Tindal, Ch. C.P.	Fellow of Trinity College, Cambridge: 8th wrangler: senior Chancellor's medallist.
72. Sir G. J. Turner, V.C.	Fellow of Pembroke College, Cambridge: a wrangler.
73. Sir John Vaughan, Just. C.P.	
74. Sir W. H. Watson, B.E.	
75. Sir William Wightman, Just. Q.B.	Michell Fellow of Queen's College, Oxford.
76. Sir James Wigram, V.C.	Fellow of Trinity College, Cambridge: fifth wrangler.
77. Sir James Plaisted Wilde, B.E.	Trinity College, Cambridge.
78. Lord Truro.	
79. Sir J. S. Willes, Just. C.P.	Trinity College, Dublin.
80. Sir E. V. Williams, Just. C.P.	
81. Sir John Williams, Just. Q.B.	Fellow of Trinity College, Cambridge.

	Place of Education.
82. Sir W. Page Wood, V.C.	Fellow of Trinity College, Cambridge.

Of these eighty-two judges who discharged judicial functions in one or more of three English reigns—*thirty-two* (so far as this compiler can ascertain) received no education at Oxford, Cambridge, Edinburgh, or Dublin; *one* was educated at Edinburgh; *four* belong to Dublin University; *eleven* were trained at Oxford; *thirty-four* came from Cambridge. It does not appear that the number of Cambridge men who have joined the Inns of Court during the present century is above that of the Oxford men who have nominally devoted themselves to law. It should, moreover, be observed that with the exception of Lord Tenterden, Mr. Justice Coleridge, and Lord Westbury, the eleven Oxonian judges cannot be said in any way to represent the special culture of their university; whereas of the thirty-four Cantab. judges, the larger proportion do unquestionably represent the intellectual life of their Alma Mater. It is also worthy of notice that the superiority of Cambridge is more strongly manifested, when we come to the times in which the existing Oxford and Cambridge systems of study can be said to have been fully at work and on their trial.

Looking at the foregoing list, Cambridge men may find abundant consolation for the defeats which in recent years they have endured on the Thames at the hands of Oxford oarsmen. Trinity men also may find some justification for the boast, that their college is the nursery of English lawyers, when they consider the names of the twenty-three Trinitarian judges.

The derision which Lord Kenyon's frequent exhibitions of deficient culture aroused in the court over which he presided, and the humiliating scrapes into which he was perpetually falling through his ludicrous ignorance about everything, save the rules and practice of English law, place in the strong light of irresistible comedy some of the evil consequences which would result to the legal order and the country, if our lawyers, narrowing their studies within strictly professional limits, surrendered their present position of intellectual equality with the most learned and enlightened sections of the community.

A "legal monk" and an honest man, Kenyon not only made himself ridiculous to scholars, but failed in his special duties to society, because he lacked the learning of scholars, the knowledge of men of science, and the general information of men of business. Mr. Townsend* has described many of the occasions when this illiterate Chief Justice made even justice contemptible by pedantic blunders that in the present day would excite the scorn of a haberdasher's apprentice; and from private records, as well as published memoirs, it would be easy to make copious additions to the biographer's anecdotes.

In the fulness of his intellectual light this Chief Justice, who exerted himself to revive the obsolete law of the land against commercial speculators, was convinced that the sun made the circuit of the earth once in every twenty-four hours. Whilst he occupied a stool in the office of a Nantwich attorney, he experienced an uneasiness known to sentimental milliners of the Byronic period as "the stirring of the Sacred Muse;" and under its influence he glorified Sir Watkin Williams Wynn and his noble seat "Wynnstay," in the lines:—

> "There Watkyn stood firm to Britannia's cause,
> Guard of her ancient manners and her laws.
> Oh, great, good man! borne on the wings of fame,
> Far distant ages shall revive thy name;
> While Clwyd's streams shall lave the verdant meads,
> And Snowdon's mountains raise their lofty heads;
> While goats shall o'er thy hills, O Cambria, stray,
> And day succeed to night, and night to day,
> So long thy praise, O Williams, shall remain
> Unsullied, free from dark oblivion's chain."

Guided by natural prudence and sound judgment, the young Welshman never repeated this brief flirtation with the "sacred muse;" and from the date of his arrival in London to his dying day he set his face against literature, science, and all other intellectual phantasies, with *one* exception. But though totally devoid of any tincture of classic culture, the man persisted in larding his homely English with scraps of misquoted or misapplied Latin; and so frequently did he give way to this comical habit, after his elevation to the bench, that the scholars

* Mr. Townsend's memoir of Kenyon was transcribed by Lord Campbell even more closely than the memoirs of Loughborough and Erskine.

who practised at his bar, or gave evidence in his court, used to look for one or more of his favourite Latin terms whenever he opened his lips. One day he would silence an importunate suitor or loquacious barrister by exclaiming, "Est modus in rebus, or as the vernacular hath it,—There must be an end of all things:" on another day, he would clothe his face with the wisest of his judicial aspects, and observe, "In *advancing* to a conclusion on this subject, I am resolved *stare supra antiquas vias.*" When a glaring case of fraud was brought before his observation he exclaimed, "The dishonesty is manifest; in the words of an old Latin sage—*apparently* 'Latet anguis in herbâ;'" to a deeply-edified grand jury he remarked in a tone of solemn pathos, "Having thus discharged your consciences, gentlemen, you may retire to your homes in peace, with the delightful consciousness of having performed your duties well; and as you compose yourselves for nocturnal slumber, you may apply to yourselves the words of the heathen philosopher, '*Aut Cæsar aut nullus.*'" Without the assistance of Latin, some of his remarks uttered from the judgment-seat were very provocative of laughter. "The allegation," he exclaimed indignantly during the examination of an unsatisfactory witness, "is as far from truth, as old Booterium from the Northern Main,—a line I have heard or met with God knows *wheer.*" On another occasion, when he reprimanded an attorney for causing a needless and vexatious delay in a cause, he observed in boldly metaphorical language, "This is the last hair in the tail of procrastination, and it must be plucked out;" and he is reported to have lectured "twelve gentlemen in the box" thus:—"If an individual can *break down* any of those safeguards which the Constitution has wisely and cautiously erected, by *poisoning* the minds of the jury at a time when they are called upon to decide, he will *stab* the administration of justice in its most vital parts." But Kenyon's grandest oration was made at the trial of Williams for publishing Tom Paine's 'Age of Reason,' when the learned judge in his summing-up observed,—"Christianity from its earliest institution, met with its opposers. The professors were very soon called upon to publish their 'Apologies' for the doctrines they had embraced. In what manner they did that, and whether they

had the advantage of their adversaries, or sunk under the superiority of their arguments, mankind for near two thousand years have had the opportunity of judging. They have seen what *Julian*, Justin Martyr, and other apologists have written, and have been of opinion that the argument was in favour of those publications." Telling this story in his own way, and improving it—as he was fully justified in doing—Coleridge in the 'Table Talk' assures his readers that Lord Kenyon, in his address to the jury in a trial for blasphemy, said, "Above all, gentlemen, need I name to you the Emperor Julian, who was so celebrated for the practice of every Christian virtue, that he was called *Julian the Apostle?*"

To several later judges, as well as to Kenyon, has been attributed the memorable judicial address to the dishonest butler who had been convicted of stealing large quantities of wine from his master's cellar. "Prisoner at the bar," the judge is reported to have said, "you stand convicted on the most conclusive evidence of a crime of inexpressible atrocity—a crime that defiles the sacred springs of domestic confidence, and is calculated to strike alarm into the breast of every Englishman who invests largely in the choicer vintages of Southern Europe. Like the serpent of old you have stung the hand of your protector. Fortunate in having a generous employer, you might, without dishonesty, have continued to supply your wretched wife and children with the comforts of sufficient prosperity, and even with some of the luxuries of affluence; but dead to every claim of natural affection, and blind to your own real interest, you burst through all the restraints of religion and morality, and have for many years been *feathering your nest with your master's bottles.*" On another occasion each of the several judges to whom the foregoing story is attributed is reported to have spoilt the effect of a stirring appeal to a prisoner's better nature by an unfortunate omission of certain connecting observations which the learned speaker had formed in his mind, but unfortunately neglected to put in language. "Prisoner at the bar, the offence with which you stand charged," said the judge in an awfully impressive tone, "has been fully proved, and it now becomes my duty to pass upon you the sentence of the law. You cannot

be otherwise than deeply affected by the ignominy which you have incurred through the indulgence of your vicious propensities. A bountiful Creator endowed you with a powerful frame, a comely appearance, and more than ordinary intelligence; and through the care of your respectable parents you received at the outset of life an excellent education—*instead of which, prisoner at the bar, you have persisted in going about the country and stealing ducks.*"

Amongst the grimly humorous addresses attributed to judges speaking from the bench to prisoners at the bar, Baron Alderson's rejoinder to a man convicted of swindling is memorable. In reply to the final inquiry why sentence should not be passed upon him, the prisoner, with blasphemous obstinacy, persisted in asserting his innocence. The miserable fellow concluded his address by saying deliberately and in a singularly solemn tone, "May God strike me dead, now at this moment, and here where I stand, if I am not innocent!" As the speaker's guilt had been clearly ascertained, every hearer was painfully moved by this abominable self-imprecation. A thrill of horror ran through the court. A minute of painful silence ensued; and then the judge substituted another emotion in the minds of all present, by saying, in a cold matter-of-fact voice, "Prisoner at the bar, as Providence has not interposed in the behalf of society, the sentence of the court is, that you be transported for twenty years." Was it this same judge, was it any one of the score other judges on whom the story is fathered, who, in passing sentence on a wretched bigamist, whose crime was attended by many palliating circumstances, roused the laughter of his auditors, and created a general sympathy for the criminal? Eyeing the prisoner—an honest artisan whose wife had been a thief, virago, and habitual drunkard; and who had not taken a second woman to church until he had good reason to believe, as well as hope, that his wife was dead—the judge, in this anecdote, is made to say, "Prisoner at the bar, I find it difficult to express my sense of the crime which is charged against you, and which you have not ventured to deny. Your offence belongs to a class of offences which, if they were not promptly punished, would cause an unspeakable amount of human misery, and would, ere

long, bring about the utter demoralization of our species. Your sin is not merely an infringement of a human enactment; it is a violation of divine law. The sentence of this court is, that you be imprisoned for one day, without hard labour."

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